HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB COM 21-05 Requirements for Pari-mutuel Permitholders to Conduct Racing or Games
SPONSOR(S): Commerce Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Commerce Committee	21 Y, 1 N	Thompson	Hamon

SUMMARY ANALYSIS

During the 2018 General Election, voters approved an amendment to the Florida Constitution entitled "Prohibition on Racing of and Wagering on Greyhounds or Other Dogs", which states greyhound tracks must discontinue live greyhound racing on January 1, 2021, but may continue to operate other forms of gaming. The amendment also directs the legislature to specify civil or criminal penalties for violations of the ban, but must allow cardroom and slot machine facilities at greyhound tracks to continue to operate after the closure of greyhound racing. As a result, the bill amends Florida Statutes to account for the change to the Constitution.

The bill:

- Codifies the prohibition of greyhound racing, updates certain provisions in Florida law that are inconsistent with the prohibition of live racing of greyhounds, and removes requirements for greyhound permitholders, jai alai permitholders, and harness horse permitholders to conduct live racing or games.
- Limits permits for the operation of a pari-mutuel facility, cardroom, or slot machine facility to facilities with permits on January 1, 2021.
- Provides that no pari-mutuel facility, cardroom, or slot machine facility may be relocated, and no pari-mutuel wagering permit may be converted to another class of permit.
- Revises the requirement for pari-mutuel permitholders to conduct live racing or games to provide:
  - A greyhound permitholder may not conduct live racing.
  - A jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder may elect not to conduct live racing or games.
  - A thoroughbred permitholder must conduct live racing.
- Provides that a greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games:
  - Retains its permit;
  - Is a pari-mutuel facility as defined in law;
  - Is eligible, but not required, to be a guest track, and if the permitholder is a harness horse racing permitholder, is eligible to be a host track for purposes of intertrack wagering and simulcasting;
  - Remains eligible for a cardroom license; and
  - If such permitholder has been issued a slot machine license, that facility continues to be eligible for a slot machine license.
- Maintains current law requiring thoroughbred permitholders to continue live racing to maintain eligibility for a cardroom license or slot machine license.
- Authorizes permitholders (those without a live requirement and those in compliance with live requirements) to receive broadcasts of any class of pari-mutuel race or game and accept wagers on such races or games.
- For Fiscal Year 2021-2022 only, the Division may approve changes to a permitholder's operating dates if the request is received before July 1, 2021.

The bill may have an indeterminate fiscal impact on state government.

The effective date of the bill is July 1, 2021, but only if PCB COM 21-03 or similar legislation takes effect.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

General Overview of Gaming in Florida

Gambling is generally prohibited in Florida, unless specifically authorized. Section 7, Art. X, of the Florida Constitution prohibits lotteries, other than pari-mutuel pools, from being conducted in Florida. Chapter 849, F.S., includes prohibitions against slot machines, keeping a gambling house and running a lottery.

However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel[1] wagering at licensed greyhound and horse tracks and jai alai frontons;[2]
- Gaming on tribal reservations in accordance with the Indian Gaming and Regulatory Act and the 2010 Gaming Compact with the Seminole Tribe of Florida;
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;[3] and
- Cardrooms[4] at certain pari-mutuel facilities.[5]

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,[6] bingo,[7] charitable drawings,[8] game promotions (sweepstakes),[9] bowling tournaments,[10] and skill-based amusement games and machines at specified locations.[11]

Lotteries

Section 7 of Article X of the 1968 State Constitution provides, "Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state."[12]

In order to allow activities that would otherwise be illegal lotteries, the Legislature has carved out several narrow exceptions to the statutory lottery prohibition. Statutory exceptions are provided for charitable bingo, charitable drawings, and game promotions. Charities use drawings or raffles as a fundraising tool. Organizations suggest a donation, collect entries, and randomly select an entry to win a prize.

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[1] "Pari-mutuel" is defined in Florida law as "a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. *See* s. 550.002(22), F.S.

[2] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.

[3] *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.

[4] S. 849.086(2)(c), F.S., defines "cardroom" to mean "a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility."

[5] The Department of Business and Professional Regulation (DBPR) has issued licenses to permitholders with 2021-2022 Operating Licenses to operate 27 cardrooms. *See* http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/ (last visited Apr. 7, 2021).

[6] S. 849.085, F.S.

[7] S. 849.0931, F.S.

[8] S. 849.0935, F.S.

[9] S. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

[10] S. 849.141, F.S.

[11] S. 546.10, F.S.

[12] The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The new state constitution was ratified by the electorate on November 5, 1968.

Under s. 849.0935, F.S., qualified organizations may conduct drawings by chance, provided the organization has complied with all applicable provisions of Chapter 496, F.S. Game promotions, often called sweepstakes, are advertising tools by which businesses promote their goods or services. As they contain the three elements of a lottery: consideration, chance, and prize, they are generally prohibited by Florida law unless they meet a statutory exception.[13]

In 1986, Florida voters approved an amendment to the Florida Constitution to allow the state to operate a lottery. The Florida Lottery—known formally as the Florida Education Lotteries—benefits education by funding the State Education Lotteries Trust Fund.[14] Section 15 of Article X of the State Constitution (adopted by the electors in 1986) provides as follows:

> Lotteries may be operated by the state…. On the effective date of this amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.[15]

Amendment to Florida Constitution Related to Expansion of Gambling – "Voter Control of Gambling in Florida"

During the 2018 General Election, the electorate approved an initiative constitutional amendment – Amendment 3, "Voter Control of Gambling in Florida". The amendment is codified in the State Constitution as article X, section 30,[16] which states:

> This amendment ensures that Florida voters shall have the exclusive right to decide whether to authorize casino gambling in the State of Florida. This amendment **requires a vote by citizens' initiative** pursuant to Article XI, section 3**, in order for casino gambling to be authorized** under Florida law. This section amends this Article; and also affects Article XI, by making citizens' initiatives the exclusive method of authorizing casino gambling.
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> As used in this section, "casino gambling" means any of the types of games typically found in casinos and that are within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act, 25 U.S.C. ss. 2701 et seq. ("IGRA"), and in 25 C.F.R. s. 502.4, upon adoption of this amendment, and any that are added to such definition of Class III gaming in the future. This includes, but is not limited to, any house banking game, including but not limited to card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games); any player-banked game that simulates a house banking game, such as California black jack; casino games such as roulette, craps, and keno; any slot machines as defined in 15 U.S.C. s. 1171(a)(1); and any other game not authorized by Article X, section 15, whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing. As used herein, "casino gambling" includes any electronic gambling devices, simulated gambling devices, video lottery devices, internet sweepstakes devices, and any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under IGRA. As used herein, "casino gambling" does not include pari-mutuel wagering on

[13] *Little River Theatre Corp v. State*, 185 So. 854, 868 (Fla. 1939).
[14] The Department of the Lottery is authorized by Article X, Section 15 of the Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., creates the Department of the Lottery and states the Legislature's intent that it be self-supporting and revenue-producing and function as an entrepreneurial business enterprise.
[15] The Department of the Lottery is authorized by Article X, Section 15 of the Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., creates the Department of the Lottery and states the Legislature's intent that it be self-supporting and revenue-producing and function as an entrepreneurial business enterprise.
[16] See the text of Amendment 3, now codified as art. X, s. 30, at http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes&CFID=44933245&CFTOKEN=f39b1ca7cab71561-BE329BC7-5056-B837-1A6123F335C4849F#A10S30 (last visited Apr. 7, 2021).

horse racing, dog racing, or jai alai exhibitions. For purposes of this section, "gambling" and "gaming" are synonymous.

Nothing herein shall be deemed to limit the right of the Legislature to exercise its authority through general law to restrict, regulate, or tax any gaming or gambling activities. In addition, nothing herein shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to the Federal Indian Gaming Regulatory Act for the conduct of casino gambling on tribal lands, or to affect any existing gambling on tribal lands pursuant to compacts executed by the state and Native American tribes pursuant to IGRA.

Article X, section 30 requires a vote proposed by citizen's initiative to amend the State Constitution to authorize "casino gambling" in Florida.

Casino gambling is defined as:

- Any of the "types of games typically found in casinos" and that are:
  - Within the definition of Class III gaming in:
    - The Federal Indian Gaming Regulatory Act[17], and
    - 25 C.F.R. § 502.4.

Casino gambling includes but is not limited to the following:

- Any house banking game, including but not limited to card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
- Any player-banked game that simulates a house banking game, such as California blackjack;
- Casino games such as roulette, craps, and keno;
- Any slot machines as defined in 15 U.S.C. 1171(a)(1); and
- Any other game not authorized by Article X, section 15 of the State Constitution, relating to state operated lotteries, whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing.

"Casino gambling" is defined to include the following devices:

- Any electronic gambling devices;
- Simulated gambling devices;
- Video lottery devices;
- Internet sweepstakes devices; and
- Any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under the Indian Gaming Regulatory Act.

"Casino gambling" does not include pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions.

By its terms, the Amendment became effective on November 6, 2018, is self-executing, and no legislative implementation is required.

Indian Gaming and Regulatory Act

Gambling on Indian lands is subject to federal law, with limited state involvement. The Indian Gaming and Regulatory Act (IGRA), codified at 25 USCA §§ 2701-2721, was enacted in 1988 in response to the United State Supreme Court decision in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987). The act provides for "a system for joint regulation by tribes and the Federal Government of class II gaming on Indian lands and a system for compacts between tribes and States for regulation of

[17] 25 U.S.C. 2701 et seq;

class III gaming."[18] In so doing, IGRA seeks to balance the competing interests of two sovereigns: the interests of the Tribe in engaging in economic activities for the benefit of its members and the interest of the state in either prohibiting or regulating gaming activities within its borders.[19]

IGRA separates gaming activities into three categories:

- Class I games are "social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations."[20] Class I games are within the exclusive jurisdiction of the Indian tribes.[21]
- Class II games are bingo and card games that are explicitly authorized or are not explicitly prohibited by the laws of the State.[22] The tribes may offer Class II card games "only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games." Class II gaming does not include "any banking card games, including baccarat, chemin de fer, or blackjack (21), or electronic or electromechanical facsimiles of any game of chance or slot machines of any kind."[23] Class II games are also within the jurisdiction of the Indian tribes, but are also subject to the provisions of IGRA.[24]
- Class III games are defined as any games that are not Class I or Class II. Class III games include slot machines and banked card games such as blackjack, baccarat and chemin de fir.[25]

A tribe can qualify to offer Class III games in the following ways:

- If the state authorizes Class III games for any purpose to any person, organization, or entity, the tribe must:
    - Authorize the games by an ordinance or resolution adopted by the governing body of the Indian tribe, approved by the Chairman of the National Indian Gaming Commission, and in compliance with IGRA; and
    - Conduct the games in conformance with a Tribal-State compact entered into between the tribe and the State.[26]
- If the state does NOT authorize Class III gaming for any purpose by any person, organization, or entity, the tribe must request negotiations for a tribal-state compact governing gaming activities on tribal lands. Upon receiving such a request, the state may be obligated to negotiate with the Indian tribe in good faith.[27] Under IGRA, a tribe is not entitled to a compact.

When the negotiations fail to produce a compact, a tribe may file suit against the state in federal court and seek a determination of whether the state negotiated in good faith. If the court finds the state negotiated in good faith, the tribe's proposal fails. On a finding of lack of good faith by the state, however, the court may order negotiation, followed by mandatory mediation. If the state ultimately rejects a court-appointed mediator's proposal, the Secretary "shall prescribe, in consultation with the Indian tribe, procedures... under which class III gaming may be conducted."[28]

Generally, in accordance with IGRA, a compact may include the following provisions:

- The application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of gaming;

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[18] United States Senate Report No. 100-446, Aug. 3, 1988.
[19] *Id.*
[20] 25 U.S.C. 2703(6).
[21] 25 U.S.C. 2710(a)(1).
[22] 25 U.S.C. 2703(7)(A).
[23] 25 U.S.C. 2703(7)(B).
[24] 25 U.S.C. 2710(a)(2) and (b).
[25] 25 U.S.C. 2703; 25 C.F.R. § 502.4.
[26] 25 U.S.C. 2710(d)(1).
[27] 25 U.S.C. 2710 (d)(3)(A).
[28] 25 U.S.C. 2710(d)(7). This option is addressed in *Seminole Tribe of Florida v. Florida,* 517 U.S. 44 (1996), which brought into question whether a tribe has the ability to judicially enforce the provisions of IGRA against a state. The Department of the Interior adopted rules to provide a remedy for the tribes. The validity of the rules were brought into question in *Texas v. United States*, 497 F.3d 491, (5th Cir. 2007).

- The allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of laws and regulations;
- An assessment in an amount necessary to defray the costs of regulation;
- Revenue sharing by the Indian tribe for permitted activities;
- Remedies for breach of contract;
- Standards for the operation of gaming and gaming facilities, including licensing; and
- Any other subjects that are directly related to the operation of gaming activities.[29]

Any compact that is entered into by a tribe and a state will take effect when approval by the Secretary of the Interior is published in the Federal Register.[30] Upon receipt of a proposed compact, the Secretary has 45 days to approve or disapprove the compact.[31] A compact will be considered approved if the Secretary fails to act within the 45-day period. A compact that has not been validly "entered into" by a state and a tribe (e.g., execution of a compact by a state officer who lacks the authority to bind the state) cannot be put "into effect", even if the Secretary of the Interior publishes the compact in the Federal Register.[32]

There is no explicit provision under IGRA that authorizes revenue sharing. IGRA specifically states:

> Nothing in this section shall be interpreted as conferring upon a State or any of its political subdivisions authority to impose any tax, fee, charge, or other assessment upon an Indian tribe or upon any other person or entity authorized by an Indian tribe to engage in a class III activity. No State may refuse to enter into the negotiations described in paragraph (3) (A) based upon the lack of authority in such State, or its political subdivisions, to impose such a tax, fee, charge, or other assessment.[33]

Notwithstanding this restriction, revenue sharing is permissible so long as the tribe receives a valuable economic benefit in return. Typically, such benefit is in the form of substantial exclusivity in game offerings, geographic monopoly and/or a right to conduct such offerings on more favorable terms than non-Indians.[34]

The 2010 Compact

The Tribe and the State executed the 2010 Compact on April 7, 2010, which was ratified through Chapter 285, F.S. The 2010 Compact took effect when published in the Federal Register on July 6, 2010 and all but the banked card game authorization has a term of 20 years, expiring July 31, 2030, unless renewed.

The 2010 Compact provides for revenue sharing from the Tribe to the State. For the exclusive authority to offer banked card games on tribal lands at five locations for five years and to offer slot machine gaming outside Miami-Dade and Broward Counties, the Tribe pays the State a share of "net win." Revenue sharing payments were approximately $240 million per year. The 2010 Compact required the Tribe to share revenue with the State in the amount of $1 billion over the first five years.

Section 285.710(1)(f), F.S., designates the Division within DBPR as the "state compliance agency" responsible for carrying out the state's oversight responsibilities under the 2010 Compact.

The State of Florida retains the right to authorize or prohibit gaming in the state. However, the 2010 Compact provides consequences for the expansion of gaming:

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[29] 25 U.S.C. 2710 (d)(3)(C).
[30] 25 U.S.C. 2710(d)(3)(B).
[31] 25 U.S.C. 2710(d)(8)(C).
[32] *See Pueblo of Santa Ana v. Kelly*, 104 F.3d 1546 (10th Cir. 1997).
[33] 25 U.S.C. 2710(d)(4).
[34] *See generally In re Indian Gaming Related Cases*, 331 F.3d 1094 (9th Cir. 2003)(upholding revenue sharing where revenues were apportioned to non-gaming tribes); *see also* Letter From Gale A. Norton, Secretary of the Department of the Interior, to Cyrus Schindler, President of the Seneca Nation of Indians, November 12, 2002.

- If new forms of Class III gaming and casino-style gaming are authorized for the eight licensed pari-mutuel facilities located in Miami-Dade and Broward counties (which may not relocate) and the net win from the Tribe's Broward facilities drops for the year after the new gaming begins, then the Tribe may reduce the payments from its Broward facilities by 50 percent of the amount of the reduction in net win.
- If new forms of Class III gaming and other casino-style gaming are authorized for other locations in Miami-Dade and Broward counties, then the Tribe may exclude the net win from their Broward facilities from their net win calculations when the new games begin to be played.[35]

Revenue sharing payments cease if:

- The state authorizes new forms of Class III gaming or other casino-style gaming after February 1, 2010, or authorizes Class III gaming or other casino-style gaming at any location outside of Miami-Dade and Broward counties that was not authorized for such games before February 1, 2010; and
- The new gaming begins to be offered for private or public use.

Starting in July 2015, DBPR and the Seminole Tribe engaged in litigation over the conduct of "designated player" card games at pari-mutuel facilities.

On November 9, 2016 a federal court ruled that the State had violated the terms of the Compact and the Tribe was entitled to continue offering banked card games beyond the initial 5-year blackjack authorization and may continue offering such games for the entire 20-year term of the Compact (expiring July 2030). The Tribe continued to make full revenue sharing payments to the State throughout the course of the litigation. The parties did not raise, and consequently the ruling did not address, the future revenue sharing obligations of the Tribe.

The parties subsequently executed a settlement agreement in July 2017, which was extended in April 2018. Under the settlement agreement, the Tribe agreed to continue revenue sharing payments provided that DBPR "aggressively enforced" the statutory ban on banking card games.

In April 2019 the Tribe stopped revenue sharing payments to the State because the Tribe believed that aggressive enforcement had not occurred.

Regulation of Pari-mutuel Wagering

Since approximately 1931, pari-mutuel wagering has been authorized in Florida for jai alai, greyhound racing, and horseracing. These activities are overseen and regulated by the Division of Pari-Mutuel Wagering (Division) with the Department of Business and Professional Regulation (DBPR).[36] A license to offer pari-mutuel wagering, slot machine gaming, or a cardroom at a pari-mutuel facility is a privilege granted by the state.[37] The Division's purpose is to ensure the health, safety, and welfare of the public, racing animals, and licensees through efficient, and fair regulation of the pari-mutuel industry in Florida.[38]

Pari-mutuel is defined as "a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes."[39]

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[35] The Tribe would automatically be authorized to conduct the same games authorized for any other person at any location.
[36] Department of Business and Professional Regulation, *Pari-mutuel Wagering – Permitholder Operating Licenses 2021-2022*, http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/ (last visited Apr. 7, 2021).
[37] *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, states "Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right," citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936). *See* s. 550.1625(1), F.S., "…legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state."
[38] From 1932 to 1969, Florida's pari-mutuel industry was regulated by the State Racing Commission. In 1970, the commission became a division within the Department of Business Regulation, which, in 1993, became DBPR.
[39] s. 550.002(22), F.S.

Chapter 550, F.S., provides specific permitting and licensing requirements, taxation provisions, and regulations for the conduct of the pari-mutuel industry. Pari-mutuel wagering activities are limited to operators who have received a permit from the Division, which is then subject to ratification by county referendum.

Permitholders apply for an operating license annually to conduct pari-mutuel wagering activities.[40] Certain permitholders are also authorized to operate cardrooms[41] and slot machines at their facility, as discussed further below.[42]

According to DBPR's Division of Pari-mutuel Wagering Annual Report, in the 2019-2020 Fiscal Year there were 50 pari-mutuel wagering permits, and 5 non-wagering permits. There were 38 pari-mutuel permitholders licensed to operate during Fiscal Year 2019-2020, in addition to one thoroughbred sales facility that holds a limited license to conduct intertrack wagering. There are eight pari-mutuel facilities that have been licensed to operate slot machines. Several locations have multiple permits that operate at a single facility. Chapter 550, F.S., specifies circumstances under which certain pari-mutuel permits may be revoked, relocated, or converted.

According to DBPR's Division of Pari-mutuel Wagering Annual Report, in the 2019-2020 Fiscal Year the following types of permits were licensed to operate:

- Nineteen Greyhound Racing permits
- Five Thoroughbred Horse Racing permits
- One Harness Horse Racing permit
- Five Quarter Horse Racing permits
- Eight Jai-Alai permits

Patrons at a racetrack may also wager on races hosted at other tracks, which is called intertrack (when both tracks are in Florida) or simulcast (when one track is out of state) wagering. In-state 'host tracks' conduct live or receive broadcasts of simulcast races that are then broadcast to 'guest tracks,' which accept wagers on behalf of the host. To offer intertrack or simulcast wagering, permitholders must conduct a full schedule of live racing and meet other requirements.[43]

According to the Division, ten permitholders were not issued operating licenses for Fiscal Year 2020-2021: two greyhound permitholders,[44] two jai alai permitholders,[45] one limited thoroughbred permitholder,[46] and five quarter horse permitholders.[47] There were eight license suspensions, and $19,075 in fines assessed for violations of all pari-mutuel statutes and administrative rules in Fiscal Year 2019-2020.[48]

Issuance of and Revocation of Pari-mutuel Permits and Annual Licenses

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[40] s. 550.0115, F.S.
[41] s. 849.086, F.S.
[42] s. 551.104, F.S.
[43] *See* s. 550.615, F.S.
[44] Jefferson County Kennel Club (Monticello) and North American Racing Association (Key West).
[45] Gadsden Jai-alai (Chattahoochee) and Tampa Jai Alai.
[46] Under s. 550.3345, F.S., during Fiscal Year 2010-2011 only, holders of quarter horse racing permits were allowed to convert their permits to a thoroughbred racing permit, conditioned upon specific use of racing revenues for enhancement of thoroughbred purses and awards, promotion of the thoroughbred horse industry, and the care of retired thoroughbred horses. Two conversions occurred, Gulfstream Park Thoroughbred After Racing Program (GPTARP) (Hallandale, Broward County), which was licensed to operate in 2019-2020, and Ocala Thoroughbred Racing (Marion County), which was not licensed to operate.
[47] ELH Jefferson (Jefferson County), DeBary Real Estate Holdings (Volusia County), North Florida Racing (Jacksonville), Pompano Park Racing (Pompano Beach), and St. Johns Racing (St. Johns County). *See* http://www.myfloridalicense.com/dbpr/pmw/documents/PermitholdersList_2020-2021.pdf (last visited Apr. 7, 2021).
[48] Department of Business and Professional Regulation Division of Pari-mutuel Wagering, *89th Annual Report for Fiscal Year 2019-2020*, AnnualReport-2019-2020--89th--20210224.pdf pg. 5, (last visited Apr. 7, 2021).

Section 550.054, F.S., provides that any person meeting the qualification requirements of ch. 550, F.S., may apply to the Division for a permit to conduct pari-mutuel wagering. Upon approval, a permit must be issued to the applicant that indicates:

- The name of the permitholder;
- The location of the pari-mutuel facility;
- The type of pari-mutuel activity to be conducted; and
- A statement showing qualifications of the applicant to conduct pari-mutuel performances under ch. 550, F.S.

A permit does not authorize any pari-mutuel performances until approved by a majority of voters in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities.

An application may not be considered, nor may a permit be issued by the Division or be voted upon in any county, for the conduct of:

- Harness horse racing, quarter horse racing, thoroughbred horse racing, or greyhound racing at a location within 100 miles of an existing pari-mutuel facility; or
- Jai alai games within 50 miles of an existing pari-mutuel facility.[49]

After issuance of the permit and a ratification election, the Division may issue an annual operating license for wagering at the specified location in a county, indicating the time, place, and number of days during which pari-mutuel operations may be conducted at the specified location.[50]

Revocation

The Division may revoke or suspend any permit or license upon the willful violation by the permitholder or licensee of any provision of ch. 550, F.S., or any administrative rule adopted by the Division, and may impose a civil penalty against the permitholder or license up to $1,000 for each offense.[51]

Under certain circumstances in statute, a permitholder may lose his or her permit to conduct pari-mutuel wagering. If a permitholder has failed to complete construction of at least 50 percent of the facilities necessary to conduct pari-mutuel wagering within 12 months after approval by the voters of the permit, the DPMW shall revoke the permit after giving adequate notice to the permitholder.[52] The DIVISION may grant one extension of 12 months upon a showing of good cause by the permitholder.

If a permitholder fails to pay tax on handle for live thoroughbred horse performances for a full schedule of live races for two consecutive years, his or her permit is void and escheats back to the state, unless the failure of payment was due to events beyond the control of the permitholder.[53] Financial hardship to the permitholder does not, in and of itself, constitute just cause for the failure to pay taxes in this section. There is a similar requirement for harness racing permitholders in s. 550.9512(3)(a), F.S. In the case of failure to pay taxes, the permit escheats to the state and may be reissued.

Relocation

Certain permitholders may relocate the location listed in their permit to a new location within 30 miles. Greyhound and jai alai permitholders operating in counties where they are the only permitholder of that class may relocate under s. 550.0555, F.S. Greyhound permitholders that converted their permit from a jai alai permit under s. 550.054, F.S., may relocate under that statute. A greyhound permitholder in a county where it is the only permitholder who operates at a leased facility may also relocate under s. 550.054, F.S.

[49] S. 550.054(2), F.S. (Distances are measured on a straight line from the nearest property line of one pari-mutuel facility to the nearest property line of the other facility.)
[50] S. 550.054(9)(a), F.S.
[51] S. 550.054(9)(b), F.S.
[52] s. 550.054(10), F.S.
[53] s. 550.09515(3)(a), F.S.

In each of these cases, the relocation must not cross county boundaries and must be approved under the local zoning regulations. In relocation under s. 550.054, F.S., the Division is required to grant the application for relocation once the permitholder fulfills the requirements of the statute. Approval by the Division is required for relocations under s. 550.0555, F.S.

Conversion

Certain permitholders may convert their permits, for instance, a permit for pari-mutuel wagering on jai alai may be converted to greyhound racing if the permitholder meets certain criteria.[54] In the past, quarter horse permits have been converted to limited thoroughbred permits,[55] jai alai to greyhound racing,[56] etc.

Permitholders may also convert to conduct summer jai alai, in certain circumstances.[57] This provision, enacted in 1980, has been subject to competing interpretations. The bill enacting the provision included in a whereas clause a finding that "it would be to the best interests of the state to permit summer jai alai *so long as there is no increase in the number of permittees authorized to operate* within any specified county." The DIVISION issued one summer jai alai permit in Miami-Dade County in 2011 and has received numerous applications for Miami-Dade and Broward counties. The provision provides:

If a permitholder that is eligible under this section to convert a permit chooses not to convert, a new permit is made available in that permitholder's county to conduct summer jai alai games as provided by this section, notwithstanding mileage and permit ratification requirements. If a permitholder converts a quarter horse racing permit pursuant to this section, this section does not prohibit the permitholder from obtaining another quarter horse racing permit.

If the provision is interpreted to provide for the issuance of a new permit, it could be used to issue new permits as often as every two years.

Intertrack and Simulcast Wagering

Wagering on races hosted at remote tracks is called intertrack (when both tracks are in Florida) or simulcast (when one track is out of state) wagering. In-state 'host tracks' conduct live or receive broadcasts of simulcast races that are then broadcast to 'guest tracks,' which accept wagers on behalf of the host. To conduct intertrack or simulcast wagering, permitholders must conduct a full schedule of live racing and meet other requirements.[58]

A limited amount of intertrack wagering is also authorized by statute for one permanent thoroughbred sales facility.[59] In order to qualify for a license, the facility must have at least 15 days of thoroughbred horse sales at a permanent sales facility in this state for at least three consecutive years. Additionally, the facility must have conducted at least 1 day of nonwagering thoroughbred racing in this state, with a purse structure of at least $250,000 per year for 2 consecutive years before application for a license.

A limited intertrack wagering licensee is limited to conducting intertrack wagering during:

- The 21 days in connection with thoroughbred sales;
- Between November 1 and May 8;
- Between May 9 and October 31, if:
    - No permitholder within the county is conducting live events.

[54] s. 550.054(14), F.S., ruled an unconstitutional act by *Debary Real Estate Holdings, LLC v. State, Dept. of Business and Professional Regulation, Div. of Pari-Mutuel Wagering*, 112 So.3d 157, 168 (Fla. 1st DCA 2013).
[55] *See* s. 550.3345, F.S.
[56] ch. 89-219, Laws of Fla.
[57] s. 550.0745, F.S.
[58] *See* s. 550.615, F.S.
[59] s. 550.6308, F.S.

- Permitholders operating live events within the county consent.
- For the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet.

The licensee is further limited to intertrack wagering on thoroughbred racing, unless all permitholders in the same county consent. The licensee must pay 2.5 percent of total wagers on jai alai or greyhound racing to thoroughbred permitholders operating live races for purses.

Amendment to Florida Constitution Prohibiting Racing of and Wagering on Greyhounds or Other Dogs

During the 2018 General Election, the voters approved an initiative constitutional amendment, Amendment 13, Prohibition on Racing of and Wagering on Greyhounds or Other Dogs, which has been codified in the State Constitution as article X, section 32.[60]

Article X, section 32 states:

> Prohibition on racing of and wagering on greyhounds or other dogs.—The humane treatment of animals is a fundamental value of the people of the State of Florida. After December 31, 2020, a person authorized to conduct gaming or pari-mutuel operations may not race greyhounds or any member of the *Canis Familiaris* subspecies in connection with any wager for money or any other thing of value in this state, and persons in this state may not wager money or any other thing of value on the outcome of a live dog race occurring in this state. The failure to conduct greyhound racing or wagering on greyhound racing after December 31, 2018, does not constitute grounds to revoke or deny renewal of other related gaming licenses held by a person who is a licensed greyhound permitholder on January 1, 2018, and does not affect the eligibility of such permitholder, or such permitholder's facility, to conduct other pari-mutuel activities authorized by general law. By general law, the legislature shall specify civil or criminal penalties for violations of this section and for activities that aid or abet violations of this section.

Thus, on January 1, 2019, greyhound tracks were permitted to discontinue live greyhound racing but could continue to operate other forms of gaming. As of January 1, 2021, wagering on live greyhound racing in Florida is completely prohibited. However, cardroom and slot machine facilities at the greyhound tracks may continue to operate after the closure of racing activities.

Slot Machine Gaming Locations and Operations

Slot machines were authorized for a brief period in the early 1930s, but prohibited again in Florida in 1937.[61] Slot machines remained illegal until 2004, when voters approved a state constitutional amendment authorizing slot machines at specified pari-mutuel facilities in two counties, subject to local approval.

Section 23 of Article X of the State Constitution, adopted by the electors in 2004, provides for slot machines in Miami-Dade and Broward Counties, as follows:

> After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines **within existing, licensed pari-mutuel facilities** (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such pari-

[60] [60] See the text of Amendment 13, now codified as art. X, s. 32, at http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes#A10S32 (last visited Apr. 11, 2021).
[61] s. 849.15, F.S., originally enacted by s. 1, ch. 18143, L.O.F. (1937).

mutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.

Pursuant to this constitutional authorization and subsequently enacted statutes, slot machines are now **authorized at eight pari-mutuel facilities** in Broward and Miami-Dade Counties and are regulated under Chapter 551, F.S.[62] These facilities are often referred to as "Racinos" (i.e., race track + casino).

Under s. 551.102(4), F.S., slot machine-eligible facilities are defined as follows:

- Any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county;
- Any licensed pari-mutuel facility located within a county as defined in s. 125.011, F.S., provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter; or
- Any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter.

Slot machine licensees are required to pay an annual license fee of $2 million and an annual regulatory fee of $250,000.[63] The tax rate on slot machine revenues at each facility, originally 50 percent, is currently 35 percent. In order to remain eligible for slot machines, permitholders must conduct a full schedule of live racing or games, among other requirements.[64]

Seven pari-mutuel facilities obtained eligibility for slot machines through constitutional approval - the first clause above. An eighth pari-mutuel facility, Hialeah Park, was ineligible under the first clause because it had not conducted live racing or games in 2002 and 2003. However, it obtained eligibility in 2010 with the enactment of Chapter 2009-170, which added the second and third clauses above to s. 551.102(4), F.S. Notably, the 2010 Compact was ratified by the same legislation that effectuated the second and third clauses.

To date, no facilities have obtained eligibility through the third clause. However, several pari-mutuels have relied upon that clause in applying for a slot machine license.[65] Certain permitholders seeking to add slot machines have argued that the phrase "after the effective date of this section" in the third clause applies to "a countywide referendum held." Based on this reading of the statute, some permitholders contend that any county can hold a referendum on slot machines by virtue of its general authority to hold referenda or, alternatively, that the necessary legislative authorization to hold such a referendum is conferred by the current statute. To date, Duval, St. Lucie, Brevard, Gadsden, Lee, Palm Beach, Hamilton and Washington counties have each held a countywide referendum. In each case, a majority of voters indicated their support for slot machines at the pari-mutuel facility in that county.

As the Division began receiving applications for slot machine licenses from pari-mutuel permitholders in these counties, DBPR requested a formal written opinion from Florida's Attorney General (AGO) regarding whether the Division was authorized by statute to issue slot machine licenses to facilities outside of Miami-Dade and Broward Counties.

[62] *See* Article X, Section 23, Florida Constitution; ch. 2010-29, L.O.F. and chapter 551, F.S.
[63] ss. 551.106 and 551.118, F.S.
[64] s. 551.104(1)(c), F.S.
[65] *Gretna Racing, LLC v. Fla. Dep't of Bus. & Prof. Reg*., No. SC15-1929, 2015 WL 8212827 (Fla. May 18, 2017).

In January 2012, the AGO stated that it did not, concluding that the phrase "after the effective date of this section" modified the phrase "a statutory or constitutional authorization" and not "countywide referendum."[66] The AGO determined that counties could not rely on their general authority to hold referenda but instead must have specific statutory authorization enacted after July 1, 2010, to hold referenda on the question of slot machines. Relying on the AGO, the Division has denied all new slot machine license applications since 2012.[67] A few applicants challenged the denials, including Gretna Racing in Gadsden County. In May 2017, the Florida Supreme Court ruled in favor of the Division, holding that Gadsden County lacked the authority to conduct a referendum on slot machine gaming without further legislative authorization.[68]

Other slot machine gaming operation restrictions include:

- The issuance of slot machine licenses to licensed pari-mutuel permitholders may only be issued at the facility where pari-mutuel wagering is authorized to be conducted by the permitholder;[69]
- Slot machine gaming is limited to 18 hours per day, Monday through Friday, and 24 hours on Saturdays and Sundays;[70] and
- Complimentary or reduced-cost alcoholic beverages are prohibited from being offered to persons playing a slot machine.[71]

Cardrooms

The Legislature authorized cardrooms at pari-mutuel facilities in 1996 subject to local approval.[72] Section 849.086, F.S., authorizes cardrooms at certain pari-mutuel facilities.[73] Cardrooms can only be offered at a location where the permitholder is authorized to conduct pari-mutuel activities. To remain eligible for a cardroom license, a permitholder must conduct at least 90% of the performances conducted the year it applied for its initial cardroom license or the prior year, if the permitholder ran a full schedule of live performances.[74]

Cardrooms must be approved by an ordinance of the county commission where the pari-mutuel facility is located.

A pari-mutuel facility that operates a cardroom may only offer authorized games within the cardroom. An "authorized game" is defined as "a game or series of games of poker or dominos which are played in a nonbanking manner."[75] The licensed cardrooms are prohibited from offering "banked" card games. Thus, games are limited to where the participants play against each other, instead of against the house (cardroom).

In Fiscal Year 2021-2022, 27 cardrooms are licensed to operate.[76] The cardrooms may operate 18 hours per day on Monday through Friday and for 24 hours per day on Saturday and Sunday. No-limit poker games are permitted. Each cardroom operator must pay a tax of 10 percent of the cardroom operation's monthly gross receipts.

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[66] 2012-01 Fla. Op. Att'y Gen. (2012).
[67] *See* Mary Ellen Klas, *Attorney General Opinion Puts Reins on Slots at Gretna Barrel Racing Track*, Miami Herald (Jan. 12, 2012), http://www.miamiherald.typepad.com/nakedpolitics/2012/01/attorney-general-opinion-puts-reins-on-gretna-barrel-racing-.html.
[68] *Gretna Racing*, 2015 WL 8212827 (Fla. May 18, 2017).
[69] S. 551.104(3), F.S.
[70] S. 551.116, F.S.
[71] S. 551.121, F.S.
[72] s. 20, Ch. 96-364, Laws of Fla.
[73] S. 849.086(2)(c), F.S., defines "cardroom" to mean a facility where authorized games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility.
[74] s. 849.086(5)(b), F.S.
[75] s. 849.086(2)(a), F.S.
[76] Department of Business and Professional Regulation, *Pari-mutuel Wagering – Permitholder Operating Licenses 2021-2022*, http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/ (last visited Apr. 7, 2021).

At least four percent of the gross cardroom receipts of greyhound racing permitholders and jai alai permitholders conducting live races or games must supplement greyhound purses, and quarter horse permitholders must have a contract with a horsemen's association governing the payment of purses on live quarter horse races conducted by the permitholder.[77]

Live Performance Requirements

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.[78] Currently the State requires that:

- To offer intertrack or simulcast wagering, permitholders must conduct a full schedule of live racing as defined in ch. 550 and meet other requirements.[79]
- To remain eligible for a cardroom license, permitholders must conduct at least 90 percent of the performances conducted the year they applied for the initial cardroom license or the prior year, if the permitholder ran a full schedule of live performances.[80]
- To remain eligible for a slot machine license, permitholders must conduct a full schedule of live racing as defined in ch. 550.[81]

Effect of the Bill

The bill updates provisions in Florida law that are inconsistent with the prohibition of live racing of greyhounds as provided in Amendment 13 adopted in 2018. The bill removes requirements for greyhound permitholders, jai alai permitholders, and harness horse permitholders to conduct live racing or games. The bill maintains the requirement that thoroughbred permitholders continue to conduct live racing.

The bill amends s. 550.002, F.S., to revise live racing requirements at pari-mutuel permitholders affected by Amendment 13. Technical drafting changes, conforming changes, and elimination of obsolete language are also included.

The bill amends s. 550.01215, F.S., relating to operating license applications filed annually with the Division for the conduct of pari-mutuel wagering, including intertrack and simulcast wagering. The application of each permitholder must indicate whether the permitholder intends to accept wagers on intertrack and simulcast events.

The bill revises the requirement for pari-mutuel permitholders to conduct live racing or games as follows:

- A greyhound permitholder may not conduct live racing, as such racing is prohibited in Florida after December 31, 2020.
- A jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder may elect not to conduct live racing or games.
- A thoroughbred permitholder must conduct live racing.

The bill provides that a greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games:

- Retains its permit;
- Is a pari-mutuel facility as defined in s. 550.002(23), F.S.
- Is eligible, but not required, to be a guest track, and if the permitholder is a harness horse racing permitholder, is eligible to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305, F.S.; and
- Remains eligible for a cardroom license.

[77] S. 849.086(13)(d), F.S.
[78] *See* s. 550.1625(1), F.S., (legalized pari-mutuel betting at dog tracks "is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state").
[79] S. 550.615, F.S.
[80] s. 849.086(5)(b), F.S.
[81] s. 551.104(4)(c), F.S.

The bill provides that for a greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games, but has been issued a slot machine license, the facility where such permit is located:

- Remains an eligible facility as defined in s. 551.102(4), F.S.;
- Continues to be eligible for a slot machine license pursuant to s. 551.104(3), F.S.; and
- Is exempt from ss. 551.104(4)(c) and (10), F.S., and s. 551.114(2) and (4); F.S.

The bill provides that a permitholder or licensee may not conduct live greyhound racing or dogracing in connection with any wager for money or any other thing of value in the state. The Division may deny, suspend, or revoke any permit or license under ch. 550, F.S., if a permitholder or licensee conducts live greyhound racing or dogracing in violation of this provision. In addition to, or in lieu of, denial, suspension, or revocation, the Division is authorized to impose a civil penalty of up to $5,000 against the permitholder or licensee for a violation of this provision. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

Notwithstanding any other provision of law, no pari-mutuel facility, cardroom, or slot machine facility may be issued an operating license if the permitholder did not hold an operating license on January 1, 2021.

The bill provides that for Fiscal Year 2021-2022 only, the Division may approve changes to a permitholder's operating dates if the request is received before July 1, 2021.

The bill amends s. 550.0235, F.S., to substitute the term "a permitholder licensed to conduct pari-mutuel wagering," and delete the obsolete term "a permittee conducting a racing meet."

The bill provides that notwithstanding any other provision of law:

- A permit for the operation of a pari-mutuel facility, cardroom, or slot machine facility may only be held by facilities with permits on January 1, 2021.
- No pari-mutuel facility, cardroom, or slot machine facility may be relocated, and no pari-mutuel wagering permit may be converted to another class of permit.

The bill amends s. 550.09511(4), F.S., to delete a requirement for payment of daily license fees and tax on admissions and bets, if fewer than 100 live jai alai games are conducted in a calendar year.

The bill amends s. 550.09512, F.S., to clarify a provision relating to taxes payable by harness horse permitholders who conduct live harness horse performances, and adds "pandemic" to the list of exemptions for failure to operate and pay such tax.

The bill amends s. 550.1647, F.S., related to unclaimed pari-mutuel tickets, to delete references to greyhound racing.

The bill repeals s. 550.1648, F.S., related to obsolete provisions concerning greyhound adoption booths at pari-mutuel facilities and associated charity racing days.

The bill amends s. 550.334, F.S., related to quarter horse racing, deleting the requirement that a quarter horse racing permitholder to have conducted a full schedule of live racing in the preceding year to be eligible to conduct intertrack wagering.

The bill amends s. 550.3551, F.S., relating to broadcasting of racing and jai alai information, to conform references to permitholders and to delete a limitation on the number of broadcasts that may be received from outside the state by certain greyhound permitholders. The bill revises the requirement that all permitholders conduct at least eight live races or games on a race day, and meet certain minimum live racing or games requirements, to limit application of those requirements to permitholders who conduct live races or games. The bill deletes the requirement that a permitholder obtain authorization from the Division for special racing events, and deletes the associated approval process and limits on such authorization.

The bill amends s. 550.475, F.S., relating to the leasing of pari-mutuel facilities by pari-mutuel permitholders, to conform references to permitholders and to ensure a lessee may conduct intertrack wagering.

The bill amends s. 550.615, F.S., relating to intertrack wagering, to conform references to pari-mutuel facilities and live racing or games requirements, and to provide that a permitholder that has met the live racing or games requirement applicable to that permitholder under s. 550.01215(1)(b), F.S., is qualified to receive broadcasts of any class of pari-mutuel races or games and to accept wagers on such races or games. The bill provides any greyhound permitholder licensed under ch. 550, F.S., to conduct pari-mutuel wagering is qualified to, at any time, receive broadcasts and accept wagers on any class of pari-mutuel race or game.

The bill amends s. 551.104(4)(c), F.S., relating to the requirement that a permitholder conduct a full schedule of live racing or games as a condition for eligibility to obtain a license to conduct slot machine gaming. The bill applies the live racing requirements for such eligibility only to thoroughbred permitholders, as under the bill, greyhound permitholders may not conduct live racing, jai alai permitholders may elect not to conduct live games, and harness horse and quarter horse permitholders may elect not to conduct live racing.

The bill amends s. 551.114, F.S., relating to slot machine gaming areas, regarding the locations at which designated slot machine gaming areas may be located. The undefined term “live gaming facility” in current law is no longer applicable to greyhound permitholders prohibited from conducting live racing after December 31, 2020. The bill provides that slot machine gaming areas must be located at the location specified in the licensed permitholder’s operating license issued for fiscal year 2020-2021. Provisions relating to the types of buildings and the connection of such buildings to the live gaming facility are deleted as obsolete.

The bill amends s. 565.02(5), F.S., conforming requirements addressing caterers at a horse or dog racetrack or jai alai fronton to the changes made by the bill, and removing the requirement that such caterers sell only during the period beginning 10 days before and ending 10 days after racing or jai alai is conducted.

The bill amends s. 849.086, F.S., relating to cardrooms, to:

- Delete a requirement that pari-mutuel permitholders seeking renewal of a cardroom operating license must have conducted a certain number of live races or games in the previous year (the 90 percent rule);
- Revise provisions in current law that are no longer applicable to greyhound permitholders prohibited from conducting live racing after December 31, 2020;

The bill re-enacts s. 380.0651, F.S., relating to developments of regional impact, for the purpose of incorporating the definitions in s. 550.002, F.S., amended by the bill. A pari-mutuel facility continues to be subject to certain statewide guidelines and standards for developments of regional impact, as set forth in s. 380.06, F.S.

The bill re-enacts s. 402.82, F.S., relating to the electronic benefits transfer program, for the purpose of incorporating the definitions in s. 550.002, F.S., amended by the bill. The use of electronic benefits transfer cards continues to be prohibited at pari-mutuel facilities.

The bill re-enacts s. 480.0475, F.S., relating to certain overnight hours that massage establishments are prohibited from operating, for the purpose of incorporating the definitions in s. 550.002, F.S., amended by the bill. Massage establishments at pari-mutuel facilities continue to be exempt from the prohibition, and may operate between the hours of midnight and 5 a.m.

B. SECTION DIRECTORY:

Section 1: Amends s. 550.002, F.S., relating to definitions.

Section 2: Amends s. 550.0115, F.S., relating to permitholder operating license.

Section 3: Amends s. 550.01215, F.S., relating to license application; periods of operation; license fees; bond.

Section 4: Amends s. 550.0235, F.S., relating to limitation of civil liability.

Section 5: Amends s. 550.0351, F.S., relating to charity racing days.

Section 6: Amends s. 550.0425, F.S., relating to minors attendance at pari-mutuel performances; restrictions.

Section 7: Amends s. 550.054, F.S., relating to application for permit to conduct pari-mutuel wagering.

Section 8: Amends s. 550.09511, F.S., relating to jai alai taxes; abandoned interest in a permit for nonpayment of taxes.

Section 9: Amends s. 550.09512, F.S., relating to harness horse taxes; abandoned interest in a permit for nonpayment of taxes.

Section 10: Amends s. 550.105, F.S., relating to occupational licenses of racetrack employees; fees; denial, suspension, and revocation of license; penalties and fines.

Section 11: Amends s. 550.1155, F.S., relating to authority of stewards, judges, panel of judges, or player's manager to impose penalties against occupational licensees; disposition of funds collected.

Section 12: Amends s. 550.1647, F.S., relating to greyhound permitholders; unclaimed tickets; breaks.

Section 13: Repeals s. 550.1648, F.S., relating to greyhound adoptions.

Section 14: Amends s. 550.175, F.S., relating to petition for election to revoke permit.

Section 15: Amends s. 550.1815, F.S., relating to certain persons prohibited from holding racing or jai alai permits; suspension and revocation.

Section 16: Amends s. 550.24055, F.S., relating to use of controlled substances or alcohol prohibited; testing of certain occupational licensees; penalty; evidence of test or action taken and admissibility for criminal prosecution limited.

Section 17: Amends s. 550.2415, F.S., relating to racing of animals under certain conditions prohibited; penalties; exceptions.

Section 18: Amends s. 550.334, F.S., related to quarter horse racing; substitutions.

Section 19: Amends s. 550.3551, F.S., relating to transmission of racing and jai alai information; commingling of pari-mutuel pools.

Section 20: Amends s. 550.3615, F.S., relating to bookmaking on the grounds of a permitholder; penalties; reinstatement; duties of track employees; penalty; exceptions.

Section 21: Amends s. 550.475, F.S., relating to lease of pari-mutuel facilities by pari-mutuel permitholders.

Section 22: Amends s. 550.615, F.S., relating to intertrack wagering.

Section 23: Amends s. 550.6305, F.S., relating to intertrack wagering; guest track payments; accounting rules.

Section 24: Amends s. 551.104, F.S., relating to license to conduct slot machine gaming.

Section 25: Amends s. 551.114, F.S., relating to slot machine gaming areas.

Section 26: Amends s. 565.02, F.S., relating to license fees; vendors; clubs; caterers; and others.

Section 27: Amends s. 849.086, F.S., relating to cardrooms authorized.

Section 28: Reenacts s. 380.0651, F.S., relating to statewide guidelines, standards, and exemptions.

Section 29: Reenacts s. 402.82, F.S., relating to electronic benefits transfer program.

Section 30: Reenacts s. 480.0475, F.S., relating to massage establishments; prohibited practices.

Section 31: This act shall take effect July 1, 2021, but only if PCB COM 21-03 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals and businesses associated with jai alai, harness horse, and quarter horse racing will experience and indeterminate impact associated with the election by permitholders to conduct or not conduct live racing or games.

D. FISCAL COMMENTS:

State funds associated with jai alai, harness horse, and quarter horse racing will experience and indeterminate impact associated with the election by permitholders to conduct or not conduct live racing or games. The Revenue Estimating Conference has not yet reviewed this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

State agencies associated with the provisions in the bill may need to revise their rules to the extent the rules are inconsistent with the prohibition of live racing of greyhounds, and the removal of the requirements for greyhound permitholders, jai alai permitholders, and harness horse permitholders to conduct live racing or games.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 14, 2021, the Commerce Committee adopted five amendments to PCB COM 21-05 and reported the bill favorably. The amendments:

- Corrected a date from November 6, 2018, to January 1, 2021.
- Returned language inadvertently removed from the bill.
- Conformed language with other provisions in the bill.
- Ensured operation of slot machines at the same location listed on the license.
- Conformed language with other provisions in the bill.

This analysis is drafted to the bill as passed by the Commerce Committee.