

Regulatory Reform Subcommittee

Wednesday, February 16, 2022
10:30 AM – 12:30 PM
Webster Hall (212 Knott)

Meeting Packet

Chris Sprowls
Speaker

Bob Rommel
Chair

The Florida House of Representatives

Commerce Committee

Regulatory Reform Subcommittee

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Meeting Agenda

Wednesday, February 16, 2022
10:30 AM – 12:30 PM
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I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

HB 969 Resale of Tickets by Fine

HB 1269 Pari-mutuel Wagering by Daley

V. Closing Remarks

VI. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 969 Resale of Tickets
SPONSOR(S): Fine
TIED BILLS: **IDEN./SIM. BILLS:** SB 1316

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee		Wright	Anstead
2) Civil Justice & Property Rights Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Tickets to popular events sold on the primary market sometimes are priced below the market price, partly because some performers, venues, and events want to make tickets affordable for fans and consumers. Tickets are often resold on the secondary market at prices above face value. Professional resellers can use numerous staff and software, or "bots," to rapidly buy lots of tickets. In some instances, this results in resellers buying up a substantial portion of tickets initially offered for sale with the sole purpose of offering them for resale. As a result, some consumers can only buy tickets on the resale market at a substantial markup.

In response to bots buying up tickets before consumers, some performers, venues, and events have made their tickets nontransferable or have restricted transfers to being permitted only on a designated application. Nontransferable tickets, or tickets whose terms do not allow resale, may allow more consumers to access tickets at face-value. However, they also limit a consumer's ability to sell tickets they cannot use, can create inconvenience by requiring identification at the venue or the use of a specific application, and may prevent efficient allocation of tickets.

The bill requires any person or entity who offers nontransferable tickets for sale to also offer the ticket in a transferrable format.

The bill defines "nontransferable ticket" as a ticket that may not be given away or resold in a method of the ticketholder's choosing, or that requires the ticketholder and the purchaser to facilitate the exchange exclusively through an application program by the original ticket seller.

The bill provides that the original ticket seller may not penalize, discriminate against, or deny access to an event to a person who purchases or resells a ticket in a manner authorized.

The bill provides an effective date of July 1, 2022.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Nontransferable Tickets

Ticket pricing, resale activity, and fees for events vary. Tickets to popular events sold on the primary market sometimes are priced below the market price, partly because performers want to make tickets affordable and maintain fans' goodwill, according to industry representatives. Tickets are often resold on the secondary market at prices above face value. Professional resellers can use numerous staff and software, or "bots," to rapidly buy many tickets. As a result, many consumers can buy tickets only on the resale market at a substantial markup.[1]

The majority of states do not regulate or restrict the sale of nontransferable tickets. However, Connecticut, New York, and Virginia restrict nontransferable tickets, or tickets whose terms do not allow resale. In response to bots buying up tickets before consumers, some performers, venues, and events have made their tickets nontransferable or have restricted transfers to being permitted only on a designated application. Nontransferable tickets, or tickets whose terms do not allow resale, may allow more consumers to access tickets at face-value. However, they also limit a consumer's ability to sell tickets they cannot use, can create inconvenience by requiring identification at the venue or the use of a specific application, and may prevent efficient allocation of tickets.[2]

Resale of Tickets in Florida

The resale pricing of certain tickets is governed by Florida law. A person or entity that offers for resale or resells any ticket (with the exception of travel agencies under certain conditions[3]) may charge only **$1.00 above the admission price** charged by the original ticket seller, for the following:[4]

- Passage or accommodations on any common carrier in this state;
- Multiday or multievent tickets to a park or entertainment complex, or to a concert, entertainment event, permanent exhibition, or recreational activity within such a park or complex, including an entertainment/resort complex;[5] and
- **Event tickets** originally issued by a tax-exempt charitable organization, when no more than 3,000 tickets are issued per performance. The following must be conspicuously printed on the face or back of each such ticket: "*Pursuant to s. 817.36, Florida Statutes, this ticket may not be resold for more than $1 over the original admission price.*" **This provision does not apply to tickets issued or sold by a third party ticketing service on behalf of a charitable organization, unless the statement is on the ticket.**

The limitation of only being able to charge an additional $1.00 above the original price of a ticket also applies to any tickets that are resold or offered through an Internet website (except those described above), **unless** the website:

- Is authorized by the original ticket seller; or

[1] U.S. Government Accountability Office, GAO-18-357, *Event Ticket Sales: Market Characteristics and Consumer Protection Issues* 2 (April 2018), *available at* https://www.gao.gov/assets/gao-18-347.pdf.
[2] *Id*.
[3] To qualify for this exception, travel agencies must have an established place of business in Florida and pay state, county, and city occupational license taxes. *See* s. 817.36(1)(a), F.S.
[4] S. 817.36, F.S.
[5] An "Entertainment/resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owner(s)/operators(s) of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity shall include an area within a 5-mile radius of the theme park complex. *See* s. 561.01(18), F.S.

- Makes and posts the following **guarantees and disclosures** through Internet web pages, or links to web pages, in text to which a prospective purchaser is directed before completion of the resale transaction:
    - The website operator guarantees a **full refund** of the ticket price including any servicing, handling, or processing fees, if such fees are not disclosed, when:
        - The ticketed event is canceled;
        - The purchaser is denied admission to the ticketed event, unless such denial is due to the action or omission of the purchaser;
        - The ticket is not delivered to the purchaser as requested and pursuant to delivery guarantees made by the reseller and such failure results in the purchaser's being unable to attend the event; and
    - The website operator discloses that it is not the issuer, original seller, or reseller of the ticket and does not control the pricing of the ticket, which **may be resold for more than its original value**.

Individual or entities are not authorized to sell or purchase tickets at any price on property where an event is being held (e.g., outside a stadium) without the prior express written consent of the owner of the property.[6] Sales tax is due on resold tickets.[7]

A person who knowingly resells a ticket or tickets in violation of these requirements is liable to the state for a civil penalty equal to three times the amount of the price for which the ticket or tickets were resold.[8]

Also, a person who **intentionally uses or sells software to circumvent a security measure**, an access control system, or any other control or measure on a ticket seller's Internet website which is used to ensure an equitable ticket-buying process, is liable to the state for a civil penalty equal to three times the amount for which any ticket was sold.[9]

Purchasers and resellers of tickets may also be subject to civil penalties under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA).[10] In the absence of a contract with the original ticket seller to distribute or sell tickets, **a person who knowingly purchases from the original ticket seller a quantity of event tickets which exceeds the posted[11] maximum ticket limit per purchaser with the intent of resale, violates FDUTPA**.[12]

Effect of the Bill

The bill amends the provision of law outlining requirements for the resale of tickets.

The bill requires any person or entity who offers nontransferable tickets for sale to also offer the ticket in a transferrable format.[13]

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[6] *See* s. 817.36(2), F.S.
[7] *See* s. 817.36(3), F.S.
[8] *See* s. 817.36(4), F.S.
[9] *Id*. Section 817.36(5), F.S. *See also* s. 817.36(6), F.S., which defines the term "software" as "computer programs that are primarily designed or produced for the purpose of interfering with the operation of any person or entity that sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind." Similar federal legislation was enacted in 2016 to prohibit circumvention of ticket website security or control measures and the subsequent sale of the fraudulently obtained tickets by someone who knew or should have known about the violation. *See* The Better Online Ticket Sales Act, at 15 U.S.C. s. 45c.
[10] *See* part II of ch. 501, F.S., relating to consumer protection (ss. 501.201-501.213, F.S.). FDUTPA addresses protection of the public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce. Violations may result in several actions, including civil penalties.
[11] Posting of a quantity limit occurs at the point of original sale or is printed on the tickets by or on behalf of the original ticket seller. *See* s. 817.357, F.S.
[12] *See* s. 817.357, F.S.
[13] The bill provides an exception for passage or accommodations on any common carrier in Florida, multiday or multievent tickets to a park or entertainment complex or to a concert, entertainment event, permanent exhibition, or recreational

The bill defines "nontransferable ticket" as a ticket that may not be given away or resold in a method of the ticketholder's choosing, or requires the ticketholder and the purchaser to facilitate the exchange exclusively through an application program by the original ticket seller.

The bill provides that the original ticket seller may not penalize, discriminate against, or deny access to an event to a person who purchases or resells a ticket in a manner authorized.

The bill provides an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1: Amends s. 817.36, F.S. providing requirements for nontransferable tickets.
Section 2: Provides an effective date.

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:

The bill may allow more ticket resellers to sell more tickets. The bill may require original ticket sellers to sell tickets in a transferable format.

D. FISCAL COMMENTS:

None.

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.

activity, and event tickets originally issued by a charitable organization exempt from taxation under s. 501(c)(3) or the Internal Revenue Code for which no more than 3,000 tickets are issued per performance.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not state who qualifies as the "original ticket seller." For example, it does not state that it must be the ticket retailer, the artist or performer, a venue, or any other party responsible for determining ticket requirements.

The bill does not address whether a ticket seller can charge an additional fee, or higher price for a transferrable ticket versus a nontransferable ticket.

The bill also does not specify any penalties for an original ticket seller who violates the bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to resale of tickets; amending s. 817.36, F.S.; prohibiting the sale of certain nontransferable tickets; providing an exception; prohibiting the original ticket seller from taking certain actions against a person who purchases or resells a ticket; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (7) and (8) are added to section 817.36, Florida Statutes, to read:

817.36 Resale of tickets.—

(7) Any tickets, other than the tickets in paragraphs (1)(a), (1)(b), or (1)(c), may only be sold as nontransferable tickets if, at the time of sale, the original ticket seller offers the option, prominently displayed, to purchase the same ticket with no limit on transferability. For purposes of this subsection, a nontransferable ticket is a ticket that:

(a) May not be given away or resold in a method of the ticketholder's choosing; or

(b) Requires the ticketholder and the purchaser to facilitate the exchange exclusively through an application program operated by the original ticket seller.

(8) The original ticket seller may not penalize,

CODING: Words stricken are deletions; words underlined are additions.

discriminate against, or deny access to an event to a person who purchases or resells a ticket in a manner authorized by this section.

Section 2. This act shall take effect July 1, 2022.

CODING: Words stricken are deletions; words underlined are additions.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1269 Pari-mutuel Wagering
SPONSOR(S): Daley
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee		Thompson	Anstead
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Pari-mutuel wagering is authorized in Florida for certain permitholders. These activities are overseen and regulated by the Division of Pari-Mutuel Wagering (Division) with the Department of Business and Professional Regulation (DBPR). However, the Florida Gaming Control Commission (Commission), established within the Department of Legal Affairs, Office of the Attorney General, in 2021, was given responsibility over the state's gambling laws, including pari-mutuel wagering, beginning July 1, 2022.

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. Currently, pari-mutuel permitholders' authority to conduct certain live racing or games is limited as follows:

- 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.

Permitholders that do not conduct live racing or games retain their permit, are considered a pari-mutuel facility.

The bill amends Florida's pari-mutuel wagering laws, as follows:

- Authorizes a greyhound permitholder, jai alai permitholder, thoroughbred permitholder, or quarter horse racing permitholder that held such permit during the 2020-2021 operating year to conduct live harness horse racing.
- Authorizes a permitholder who elects to conduct live harness horse racing to conduct live harness horse racing as long as they qualify for the permit they held during the 2020-2021 operating year.
- Authorizes a greyhound permitholder, jai alai permitholder, thoroughbred permitholder, or quarter horse racing permitholder who elects to conduct live harness horse racing to make a request to conduct such racing, and have their request received by October 1, 2022.
- Provides that conducting live harness horse racing is an additional benefit, and not considered a conversion of a permit or a new or additional permit. A permitholder who elects to conduct live harness horse racing is not entitled to receive any additional or other types of pari-mutuel permits.

The bill does not appear to have a fiscal impact on state or local government.

The effective date of the bill is July 1, 2022.

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, a constitutional amendment approved by voters in 1986 authorized state-operated lotteries, and a constitutional amendment in 2004 authorized slot machines in Miami-Dade and Broward Counties.

The following gaming activities are also authorized by law and regulated by the state:

- Pari-mutuel[1] wagering;[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]

In 2013, the legislature clarified that Internet café style gambling machines were illegal in the state. The legislation clarified existing sections of law regarding slot machines, charitable drawings, game promotions, and amusement machines and created a rebuttable presumption that machines used to simulate casino-style games in schemes involving consideration and prize are prohibited slot machines.[12]

In 2015, the legislature determined that the regulation of the operation of skill-based amusement games and machines would ensure compliance with Florida's limitations on gambling and prevent the expansion of casino-style gambling. The legislature clarified regulations related to the operation and

[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 Jan. 23, 2022).

[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] Florida House of Representatives Select Committee on Gaming, Final Bill Analysis of 2013 CS/HB 155, p. 1 (Apr. 19, 2013).

use of amusement games or machines to ensure that regulations would not be interpreted as creating an exception to the state's general prohibitions against gambling.[13]

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.[14]

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.

As of January 1, 2021, wagering on live greyhound racing in Florida is completely prohibited. However, cardroom and slot machine facilities by such permitholders may continue to operate after the closure of racing activities.

Regulation of Pari-mutuel Wagering[15]

Oversight

Since approximately 1931, pari-mutuel wagering has been authorized in Florida for jai alai, greyhound racing, and horseracing. These activities have been overseen and regulated[16] by the Division of Pari-Mutuel Wagering (Division) with the Department of Business and Professional Regulation (DBPR).[17] However, the Legislature established the Florida Gaming Control Commission within the Department of Legal Affairs, Office of the Attorney General, in 2021. The commission is tasked with exercising all regulatory and executive powers of the state on all forms of gambling authorized by the State Constitution or law **including pari-mutuel wagering**, card rooms, slot machine facilities, and the oversight of gaming compacts under the federal Indian Gaming Regulatory Act but excluding state lottery games authorized by the State Constitution.

Effective July 1, 2022, all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority,

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[13] s. 546.10, F.S.

[14] [14] 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 Jan. 23, 2022).

[15] s. 550.002(22), F.S. 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."

[16] 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.

[17] 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 Jan. 23, 2022).

administrative rules, and unexpended balances of appropriations, allocations, and other funds in DBPR related to the oversight responsibilities by the state compliance agency for authorized gaming compacts under s. 285.710, F.S., the regulation of pari-mutuel wagering under ch. 550, F.S., the regulation of slot machines and slot machine gaming under ch. 551, F.S., and the regulation of cardrooms under s. 849.086, F.S., are transferred by a type two transfer, as defined in s. 20.06(2), F.S., to the Florida Gaming Control Commission.[18]

Licensure

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.[19]

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.[20] Certain permitholders are also authorized to operate cardrooms[21] and slot machines at their facility.[22]

According to the Division's Annual Report, in the 2019-2020 Fiscal Year there were 38 pari-mutuel permitholders licensed to operate, 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.

According the Division's 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

According to the Division, **ten permitholders were not issued operating licenses for Fiscal Year 2020-2021**: two greyhound permitholders,[23] two jai alai permitholders,[24] one limited thoroughbred permitholder,[25] and five quarter horse permitholders.[26] 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.[27]

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[18] Ch. 2021-269, Laws of Fla.

[19] *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."

[20] s. 550.0115, F.S.

[21] s. 849.086, F.S.

[22] s. 551.104, F.S.

[23] Jefferson County Kennel Club (Monticello) and North American Racing Association (Key West).

[24] Gadsden Jai-alai (Chattahoochee) and Tampa Jai Alai.

[25] 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.

[26] 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 Jan. 23 2022).

[27] 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 Jan. 23, 2022).

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

In 2021, a law became effective that prohibits the issuance, relocation, or conversion of any licenses, and prohibits a pari-mutuel permitholder from being issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021, but exempts converted thoroughbred permits under s. 550.3345, F.S. It also allows, for Fiscal Year 2021-2022 only, the Division to approve changes to a permitholder's operating dates if the request is received before October 1, 2021.

Currently, 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 wagering permit may be **converted** to another class of permit.

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.[28]

Pari-Mutuel Wagering, Slot Machine and Cardroom State Revenue

License fees and taxes collected by pari-mutuel wagering permitholders, including slot machine and cardroom permitholders, are deposited with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund. Slot machine tax revenue is transferred from the Pari-mutuel Wagering Trust Fund to the Educational Enhancement Trust Fund to supplement public education funding statewide. Taxes collected by cardrooms are split between the Pari-mutuel Wagering Trust Fund and the General Revenue Fund.

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.[29] Currently, the State only requires thoroughbred permitholders to conduct live racing;[30] a greyhound permitholder may not conduct live racing; and a jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder may elect not to conduct live racing or games.

A greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games:[31]

- 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.

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 is authorized to deny, suspend, or revoke any permit or license ch. 550, F.S., for conducting live greyhound racing or dogracing in violation of this provision. In addition to, or in lieu of, denial, suspension, or revocation of such permit or license, the Division is authorized to impose a civil penalty of up to $5,000. All penalties imposed and

[28] S. 550.054(9)(b), F.S.
[29] *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").
[30] S. 550.01215(1)(b)1., F.S.
[31] *Id.*

collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.[32]

Permitholders are authorized to amend their applications through February 28.[33]

Notwithstanding any other provision of law, other than a permitholder issued a permit pursuant to s. 550.3345, F.S., which is the conversion of quarter horse permit to a limited thoroughbred permit, a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021.[34]

After the first license has been issued to a permitholder, all subsequent annual applications for a license must be accompanied by proof, in such form as the Division may by rule require, that the permitholder continues to possess the qualifications prescribed by this chapter, and that the permit has not been disapproved at a later election.[35]

The Division is required to issue each license no later than March 15, and each permitholder is required to operate all performances at the date and time specified on its license.[36]

Effect of the Bill

The bill authorizes greyhound permitholders, jai alai permitholders, thoroughbred permitholders, or quarter horse racing permitholders that held such permit during the 2020-2021 operating year to elect to conduct live harness horse racing.

The bill provides that the authorization to conduct harness horse racing pursuant to ch. 550, F.S., may only be granted to a permitholder that held an operating license to conduct pari-mutuel wagering for fiscal year 2020-2021 or that holds a permit issued pursuant to s. 550.3345, F.S., which is a permitholder that converted a quarter horse permit to a limited thoroughbred permit.

However, such election to conduct harness horse racing does not entitle such permitholder to receive an additional, or other type of, permit.

The bill provides that live harness horse racing may only be conducted pursuant to ch. 550, F.S., if such permitholder qualifies to retain the greyhound permit, jai alai permit, thoroughbred permit, or quarter horse racing permit held during the 2020-2021 operating year.

The bill provides that the authorization granted to conduct harness horse racing to a permitholder other than a harness horse racing permitholder is not considered the granting or issuance of a permit or license, or a conversion of such permit, but is merely considered an additional benefit of holding a greyhound permit, jai alai permit, thoroughbred permit, or quarter horse racing permit issued pursuant to s. 550.3345, F.S.

The bill extends the timeframe for which the Division is authorized to approve changes in operating dates for a jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder from fiscal year 2021-2022 to 2022-2023 state fiscal years only.

The bill requires greyhound permitholders, jai alai permitholders, thoroughbred permitholders, or quarter horse racing permitholders who elect to conduct live harness racing to make a request to conduct such racing, and must have their request received by the Division by October 1, 2022.

[32] S. 550.01215(1)(b)2., F.S.
[33] S. 550.01215(1)(c), F.S.
[34] S. 550.01215(1)(d), F.S.
[35] S. 550.01215(2), F.S.
[36] S. 550.01215(3), F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 550.01215, F.S., relating to license application; periods of operation; license fees; bond.

Section 2: Provides an effective date.

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:

None.

D. FISCAL COMMENTS:

None.

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 authority to conduct live harness horse racing.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to pari-mutuel wagering; amending s. 550.01215, F.S.; prohibiting greyhound racing permitholders from conducting live greyhound racing or dogracing; requiring a thoroughbred permitholder to conduct live thoroughbred racing; authorizing specified permitholders to elect to conduct live harness horse racing; providing construction; authorizing the Division of Pari-mutuel Wagering to approve certain changes to operating dates; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (1) and subsection (3) of section 550.01215, Florida Statutes, are amended to read:

550.01215 License application; periods of operation; license fees; bond.—

(1) Each permitholder shall annually, during the period between December 15 and January 4, file in writing with the division its application for an operating license for a pari-mutuel facility for the conduct of pari-mutuel wagering during the next state fiscal year, including intertrack and simulcast race wagering. Each application for live performances must specify the number, dates, and starting times of all live

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performances that the permitholder intends to conduct. It must also specify which performances will be conducted as charity or scholarship performances.

(b)1. A greyhound permitholder may not conduct live greyhound racing or dogracing. 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 thoroughbred racing. 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); if such permitholder 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), continues to be eligible for a slot machine license pursuant to s. 551.104(3), and is exempt from ss. 551.104(4)(c) and (10) and 551.114(2); is eligible, but not required, to be a guest track and, if the permitholder is a harness horse racing permitholder, to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305; and remains eligible for a cardroom license.

2. 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 this chapter if a permitholder or licensee conducts live greyhound racing or dogracing in violation of this subparagraph. In addition to, or in lieu of, denial, suspension, or revocation of such permit or license, the division may impose a civil penalty of up to $5,000 against the permitholder or licensee for a violation of this subparagraph. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

3. A greyhound permitholder, jai alai permitholder, thoroughbred permitholder, or quarter horse racing permitholder that held such permit during the 2020-2021 operating year may elect to conduct live harness horse racing. Authorization to conduct harness horse racing pursuant to this chapter may only be granted to a permitholder that held an operating license to conduct pari-mutuel wagering for fiscal year 2020-2021 or that holds a permit issued pursuant to s. 550.3345. However, such election to conduct harness horse racing does not entitle such permitholder to receive an additional, or other type of, permit. Live harness horse racing may only be conducted pursuant to this chapter if such permitholder qualifies to retain the greyhound permit, jai alai permit, thoroughbred permit, or quarter horse racing permit held during the 2020-2021 operating year. Authorization granted to conduct harness horse racing to a permitholder other than a harness horse racing permitholder is

not considered granting or issuance of a permit or license, or a conversion of such permit, but is merely considered an additional benefit of holding a greyhound permit, jai alai permit, thoroughbred permit, or quarter horse racing permit issued pursuant to s. 550.3345.

(3) The division shall issue each license no later than March 15. Each permitholder shall operate all performances at the date and time specified on its license. The division shall have the authority to approve minor changes in racing dates after a license has been issued. The division may approve changes in racing dates after a license has been issued when there is no objection from any operating permitholder that is conducting live racing or games and that is located within 50 miles of the permitholder requesting the changes in operating dates. In the event of an objection, the division shall approve or disapprove the change in operating dates based upon the impact on operating permitholders located within 50 miles of the permitholder requesting the change in operating dates. In making the determination to change racing dates, the division shall take into consideration the impact of such changes on state revenues. Notwithstanding any other provision of law, and for the 2021-2022 and 2022-2023 state fiscal years ~~year~~ only, the division may approve changes in operating dates:

(a) For a jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder if the

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request for such changes is received before October 1, 2021; or

(b) To allow a greyhound racing permitholder, jai alai permitholder, harness horse racing permitholder, quarter horse racing permitholder, or thoroughbred racing permitholder to conduct live harness horse racing if the request for such changes is received before October 1, 2022.

Section 2. This act shall take effect July 1, 2022.