

Industries & Professional Activities Subcommittee

Tuesday, April 1, 2025
9:00 AM – 12:00 PM
Webster Hall (212 Knott)

Daniel Perez
Speaker

Mike Giallombardo
Chair

The Florida House of Representatives

Commerce Committee

Industries & Professional Activities Subcommittee

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Meeting Agenda

Tuesday, April 1, 2025
9:00am – 12:00pm
Webster Hall (212 Knott)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):
- CS/HB 785 Heated Tobacco Products by Ways & Means Committee, Tramont
- HB 955 Employment Eligibility by Jacques
- HB 1225 Employment of Minors by Miller
- HB 1467 Gambling by Snyder
- HB 4039 Broward County by LaMarca

V. Consideration of the following proposed committee substitute(s):
- PCS for CS/HB 577 -- Removal, Storage, and Cleanup of Electric Vehicles
- PCS for HB 1489 -- Kratom Products

VI. Closing Remarks

VII. Adjournment

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: CS/HB 785	**COMPANION BILL:** CS/SB 1418 (DiCeglie)
TITLE: Heated Tobacco Products	**LINKED BILLS:** None
SPONSOR(S): Tramont	**RELATED BILLS:** None

Committee References

Ways & Means	➤	Industries & Professional Activities	➤	Commerce
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SUMMARY

Effect of the Bill:

HB 785 excludes heated tobacco products (HTPs) from the taxes on cigarettes and other tobacco products under ch. 210, F.S., by updating several definitions. Regulatory provisions for these products are not changed by the bill.

Fiscal or Economic Impact:

The Revenue Estimating Conference estimated the impact of the bill as amended based on a declaratory statement from the Department of Business and Professional Regulation on March 12, 2025, stating that under current law, IQOS would not be subject to the Cigarette or Other Tobacco Product tax and surcharge. The REC determined there would be no impact from the bill because such products would already be excluded from the tax.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill excludes heated tobacco products from the taxes on tobacco products in ch. 210, F.S.

The bill accomplishes this by updating definitions for "heated tobacco product" (Section 4), "cigarette" (Section 1), and "tobacco product" (Sections 2, 5), to exclude heated tobacco products from taxation as cigarettes under part I of ch. 210, F.S. (Section 1) or as tobacco products under part II of ch. 210, F.S. (Sections 3, 4).

The definitional changes still require compliance with the delivery requirements in s. 210.095, F.S., for heated tobacco products (Section 2).

The bill renames part II of ch. 210, F.S., from "Tax on Tobacco Products other than Cigarettes or Cigars," to "Tax on Tobacco Products other than Cigarettes, Heated Tobacco Products, or Cigars" (Section 3), and makes other conforming changes (Sections 6-7).

The bill takes effect on July 1, 2025 (Section 8).

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The Revenue Estimating Conference met on March 28, 2025 and estimated the impact of the bill as amended based on a declaratory statement from the Department of Business and Professional Regulation on March 12, 2025, stating that under current law, IQOS would not be subject to the Cigarette or Other Tobacco Product tax and surcharge. The REC determined there would be no impact from the bill because such products would already be excluded from such tax.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Heated Tobacco Products

Heated tobacco products (HTPs), also known as heat-not-burn products, generate an aerosol containing nicotine by heating a tobacco-filled paper stick. The sticks are placed into a device which heats the tobacco electronically which produces a nicotine containing aerosol inhaled by the user. The heating element does not produce enough heat to burn the tobacco.[1] These products do not produce smoke because the tobacco is not burned or ignited.[2]

The HTP IQOS, developed by Philip Morris International (PMI), is the only HTP that has received authorization by the Federal Drug Administration. In 2021, a patent dispute led to an import ban on IQOS devices in the U.S., halting their sales. In February 2024, PMI and British American Tobacco settled the patent litigations related to heated tobacco products allowing for its reintroduction to the U.S. market.[3]

Taxation of Tobacco Products

Taxes are imposed on the sale of cigarettes and other tobacco products in Florida. The tax is paid by the wholesale dealer at the time of first sale within the state. For cigarettes of common size, the excise tax rate is $0.339 per pack, with rates varying proportionately for cigarettes and packs of non-standard size.[4] Additionally, a $1.00 surcharge per pack of common size cigarettes is imposed, with rates varying proportionately for cigarettes and packs of non-standard size.[5] For other tobacco products, the tax rate is 25 percent of the wholesale price,[6] with an additional surcharge of 60 percent of the wholesale price.[7] The taxation of tobacco is administered pursuant to chapter 210, F.S.

Section 210.01(1), F.S., defines the term "cigarette" to mean, for purposes of taxation:

> "[A]ny roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient."

In s. 210.25(12), F.S., the term "tobacco product" is defined for purposes of the taxation of tobacco products other than cigarettes or cigars. It is also used for the licensing of tobacco product manufacturers, importers, exporters, distributing agents, or wholesale dealers under part II of ch. 210, F.S. In this context, the term "tobacco products" means:

> "[L]oose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing; but 'tobacco products' does not include cigarettes, as defined by s. 210.01(1), or cigars."

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[1] Introduction to Heated Tobacco Products
[2] Campaign for Tobacco Free Kids, *Heated Tobacco Products, Definition and Global Market*, available at: https://assets.tobaccofreekids.org/global/pdfs/en/HTP_definition_en.pdf (last visited Jan. 20, 2024).
[3] Philip Morris asks U.S. appeals court to overturn import ban on IQOS tobacco devices at: https://www.reuters.com/legal/litigation/philip-morris-asks-us-appeals-court-overturn-import-ban-iqos-tobacco-devices-2022-10-03/?utm_ (last visited March 8, 2025)
[4] Section 210.02, F.S.
[5] Section 210.011, F.S.
[6] Section 210.30, F.S.
[7] Section 210.276, F.S.

Regulation of Tobacco Products

The definition of "tobacco products" in s. 569.002(6), F.S., is limited to the regulation of tobacco products by the Department of Business and Professional Regulation (DBPR) under ch. 569, F.S.

Dealer Permits

Section 569.003, F.S., requires a retail tobacco products dealer to acquire a permit from the division for each place of business where tobacco products are sold, including sales made through a vending machine.

Section 210.15, F.S., also requires a permit for every person, firm, or corporation desiring to engage in business as a manufacturer, importer, exporter, distributing agent, or wholesale dealer of cigarettes within Florida. To qualify for a permit, a person must be of good moral character and not less than 21 years of age to qualify. In addition, permits to corporations may be issued only to corporations whose officers are of good moral character and not less than 21 years of age.[8]

Delivery Requirements for Mail Order, Internet, Other Remote Sales of Tobacco Products

Section 210.095(5), F.S., provides requirements for the delivery of mail order, Internet, and other remote sales of tobacco products, including age verification requirements. All such deliveries are defined as "delivery sales."[9] Specific notice and shipping requirements are provided for all delivery sales, whether in-state or out-of-state. Each person who mails, ships, or otherwise delivers tobacco products in connection with an order for a delivery sale is required to:

- Include, as part of the shipping documents, in a clear and conspicuous manner, the following statement: "Tobacco Products: Florida law prohibits shipping to individuals who are not 21 years of age or older and requires the payment of all applicable taxes."
- Use a method of mailing, shipping, or delivery which obligates the delivery service to:
    - Require the signature of an adult who resides at the delivery address.
    - Require proof that the individual accepting delivery is either the addressee or the adult designated by the addressee.
    - Provide to the delivery service, if such service is used, evidence of full compliance with requirements for the collection and remittance of all taxes imposed on tobacco products by this state with respect to the delivery sale.[10]

DBPR Declaratory Statement

On March 12, 2025, DBPR issued a declaratory statement regarding PMI's IQOS electronic heating device. DBPR found that IQOS is not a tobacco product as defined in s. 210.25(12), F.S. because it is not "loose tobacco suitable for smoking." Heatsticks within the device do not consist of discernable tobacco leaves and do not leave behind individual pieces of tobacco once consumed. Additionally, IQOS does not create any visible smoke, fumes, or gaseous product that would commonly be considered "smoke" or a byproduct of "smoking." Therefore, DBPR determined PMI's product is not subject to a surcharge and taxation as a tobacco product under sections 210.276 and 210.30, F.S.

DBPR also determined that IQOS does not constitute a "cigarette" as defined in s. 210.185, F.S because the device does not involve the burning of tobacco. Because IQOS is not a cigarette, it is not subject to a surcharge and taxation under sections 210.011 and 210.02, F.S.

[8] Section 210.15(2)(b), F.S.
[9] Section 210.095(1)(b), F.S.
[10] Section 210.095(5), F.S.

OTHER RESOURCES:

CDC
Introduction to Heated Tobacco Products
DBPR Declaratory Statement

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Ways & Means Committee	17 Y, 1 N, As CS	3/13/2025	Aldridge	Hallaian
THE CHANGES ADOPTED BY THE COMMITTEE:	Revised the definition of "heated tobacco products" to exclude hookah tobacco products.			
Industries & Professional Activities Subcommittee			Anstead	Garcia
Commerce Committee				

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.

A bill to be entitled

An act relating to heated tobacco products; amending s. 210.01, F.S.; revising the definition of the term "cigarette"; amending s. 210.095, F.S.; revising the definition of the term "tobacco products"; renaming part II of ch. 210, F.S.; amending s. 210.25, F.S.; defining the term "heated tobacco product"; conforming a provision to changes made by the act; amending s. 569.002, F.S.; revising the definition of the term "tobacco products"; amending s. 951.22, F.S.; conforming a cross-reference; reenacting s. 569.31(5), F.S., relating to definitions, to incorporate the amendment made to s. 569.002, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (1) of section 210.01, Florida Statutes, is amended to read:

210.01 Definitions.—When used in this part the following words shall have the meaning herein indicated:

(1) "Cigarette" means any roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the

roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient. The term does not include a heated tobacco product as defined by s. 210.25.

Section 2. Paragraph (i) of subsection (1) of section 210.095, Florida Statutes, is amended to read:

210.095 Mail order, Internet, and remote sales of tobacco products; age verification.—

(1) For purposes of this section, the term:

(i) "Tobacco products" means all cigarettes, smoking tobacco, snuff, fine-cut chewing tobacco, cut and granulated tobacco, cavendish, ~~and~~ plug or twist tobacco, and heated tobacco products as defined in s. 210.25.

Section 3. Part II of chapter 210, Florida Statutes, entitled "Tax on Tobacco Products other than Cigarettes or Cigars," is renamed "Tax on Tobacco Products other than Cigarettes, Heated Tobacco Products, or Cigars."

Section 4. Present subsections (6) through (14) of section 210.25, Florida Statutes, are redesignated as subsections (7) through (15), respectively, a new subsection (6) is added to that section, and present subsection (12) of that section is amended, to read:

210.25 Definitions.—As used in this part:

(6) "Heated tobacco product" means a product containing

tobacco designed for use in an electronic device with a heat source that does not involve any form of burning or combustion during ordinary conditions of use and which produces an inhalable aerosol by heating the tobacco but does not produce any smoke.

(13)~~(12)~~ "Tobacco products" means loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing; but "tobacco products" does not include cigarettes~~,~~ as defined by s. 210.01(1), heated tobacco products, or cigars.

Section 5. Subsection (8) of section 569.002, Florida Statutes, is amended to read:

569.002 Definitions.—As used in this part, the term:

(8) "Tobacco products" includes loose tobacco leaves, and products made from tobacco leaves, in whole or in part, ~~and~~ cigarette wrappers, which can be used for smoking, sniffing, or chewing, and heated tobacco products as defined in s. 210.25.

Section 6. Paragraph (d) of subsection (1) of section 951.22, Florida Statutes, is amended to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to

introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles, which are contraband:

(d) Any tobacco products as defined in s. 210.25 ~~s. 210.25(12)~~.

Section 7. For the purpose of incorporating the amendment made by this act to section 569.002, Florida Statutes, in a reference thereto, subsection (5) of section 569.31, Florida Statutes, is reenacted to read:

569.31 Definitions.—As used in this part, the term:

(5) "Nicotine product" means any product that contains nicotine, including liquid nicotine, which is intended for human consumption, whether inhaled, chewed, absorbed, dissolved, or ingested by any means. The term also includes any nicotine dispensing device. The term does not include a:

(a) Tobacco product, as defined in s. 569.002;

(b) Product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act; or

(c) Product that contains incidental nicotine.

Section 8. This act shall take effect July 1, 2025.

HB 955

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 955	**COMPANION BILL:** None
TITLE: Employment Eligibility	**LINKED BILLS:** None
SPONSOR(S): Jacques	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Commerce

SUMMARY

Effect of the Bill:

The bill expands Florida's E-Verify employment eligibility verification requirements so that all private employers are required to use the E-Verify system, ensuring that every new hire is legally authorized to work in the United States, beginning on July 1, 2025.

Fiscal or Economic Impact:

Indeterminate. The bill may have an indeterminate fiscal impact on state government and the private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill expands Florida's E-Verify employment eligibility requirements, as follows:

- Beginning July 1, 2025, requires all private employers to use the E-Verify, not just employers with 25 or more employees.
- Removes the requirement that employers that voluntarily use the E-Verify system to certify such use on their tax returns.

The effective date of the bill is July 1, 2025.

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

Indeterminate. The bill may have an indeterminate fiscal impact on state agencies related to enforcement.

PRIVATE SECTOR:

Indeterminate. Businesses may have additional workload related to the employment verification requirements and may be subject to fines related to violations.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Florida E-Verify Law

Florida's E-Verify law provides the following employment eligibility verification requirements:[1]

- **Public employers**: Are required to use the E-Verify system to verify a new employee's employment eligibility.
- **Private employers with 25 or more employees**: Since July 1, 2023, are required to use the E-Verify system to verify a new employee's employment eligibility.

Each employer required, or who volunteers, to use the E-Verify system, is required to certify on its first return each calendar year to the tax service provider that it is in compliance with the E-Verify requirements when making contributions to or reimbursing the state's unemployment compensation or reemployment assistance system.[2]

If the E-Verify law provides requirements for employers when the system is unavailable,[3] requires employers to retain documentation of verifications,[4] and prohibits an employer from continuing to knowingly employ an unauthorized alien.[5]

Florida's E-Verify law also provides an exception from the verification requirements for certain employee leasing companies that applies to certain new employees of the client company. However, in the absence of a written agreement, the employee leasing company is responsible for compliance, and remains an employer as otherwise defined in federal laws or regulations.[6]

The following entities may request, and an employer must provide, copies of any documentation relied upon by the employer for the verification of a new employee's employment eligibility:[7]

- The Department of Law Enforcement (FDLE);
- The Attorney General (AG);
- The state attorney in the circuit in which the new employee works;
- The statewide prosecutor; or
- The Department of Commerce (DC).

These entities must rely upon the Federal Government to verify an employee's employment eligibility and may not independently make a final determination as to whether an employee is an unauthorized alien.[8]

An employer that uses the E-Verify system or, if that system is unavailable, the Employment Eligibility Verification form (Form I-9), with respect to the employment of an unauthorized alien has established a rebuttable presumption that the employer has not violated the state prohibition on hiring unauthorized aliens,[9] with respect to such employment.[10]

An employer that uses the same documentation that is required by the United States Citizenship and Immigration Services on its Form I-9 with respect to the employment of an unauthorized alien, has established an affirmative defense that the employer has not violated the state prohibition on hiring unauthorized aliens,[11] with respect to such employment.[12]

The DC is responsible for the administration of compliance requirements, as follows:[13]

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[1] S. 448.095(2)(a) and (b), F.S.
[2] S. 448.095(2)(b)3., F.S.
[3] S. 448.095(2)(c), F.S.
[4] S. 448.095(2)(d), F.S.
[5] S. 448.095(2)(e), F.S.
[6] S. 448.095(2)(f), F.S.
[7] S. 448.095(3)(a), F.S.
[8] S. 448.095(3)(b), F.S.
[9] S. 448.09, F.S.
[10] S. 448.095(4)(a), F.S.
[11] S. 448.09, F.S.
[12] S. 448.095(4)(b), F.S.
[13] S. 448.095(6), F.S.

- Beginning July 1, 2024, if it determines that an employer failed to use the E-Verify system, the DC is required to:
    - Notify the employer of its determination; and
    - Provide the employer with 30 days to cure the noncompliance.
- If it determines that an employer failed to use the E-Verify system as required three times in any 24-month period, it must impose a fine of $1,000 per day until the employer provides proof of compliance.
- Noncompliance constitutes grounds for the suspension of all licenses issued by a licensing agency subject to chapter 120, F.S., until the noncompliance is cured.
- Fines must be deposited into the State Economic Enhancement and Development Trust Fund for use by the DC for employer outreach and public notice of the state's employment verification laws.

E-Verify Federal Law

In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA),[14] which, among other provisions, created various employment eligibility verification programs, including the Basic Pilot program, now referred to as E-Verify. E-Verify is an Internet-based system through which an employer can verify that a newly hired employee is authorized to work in the United States. E-Verify is administered by DHS in partnership with the Social Security Administration (SAA). It is free for employers to use and provides an automated link to Government records to help employers confirm the employment eligibility of new hires.[15]

Originally, the program was available in five of the seven states that had the highest populations of unauthorized aliens and was initially authorized for only 4 years. However, Congress has consistently extended the program's life. It expanded the program in 2004, making it available in all 50 states. In 2008, the federal government began requiring any entity that maintained or applied for federal contracts to use E-Verify.[16]

To use the E-Verify system, an employer must open a "case" for the employee on the system and enter basic information from the employee's Form I-9 (name, address, SSN) into the case.[17] Then, the system checks the submitted information to records that are available to the DHS and SSA, and issues one of the following possible results to the employer:[18]

- **Employment Authorized** - The employee's information matched records available to the DHS and/or SSA.
- **E-Verify Needs More Time** - This case was referred to the DHS for further verification.
- **Tentative Nonconfirmation (Mismatch)** - Information did not match records available to the DHS and/or SSA. Additional action is required.
- **Case in Continuance** - The employee has contacted the DHS or visited an SSA field office, but more time is needed to determine a final case result.
- **Close Case and Resubmit** – The DHS or SSA requires that the employer to close the case and create a new case for the employee. This result may be issued when the employee's United States passport, passport card, or driver's license information is incorrect.
- **Final Nonconfirmation** - E-Verify cannot confirm the employee's employment eligibility after the employee contacted the DHS or SSA, the time for resolving the case expired, or the DHS closed the case without confirming the employee's employment eligibility for some other reason.

If the result is Tentative Nonconfirmation, then the employer must notify the employee, who must take further action to verify his or her eligibility. If the result is E-Verify Needs More Time or Case in Continuance, then the E-Verify system needs more time to process the case.[19]

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[14] Pub. L. No. 104-208.
[15] U.S. Citizenship and Immigration Services, *How do I use E-Verify?* https://www.e-verify.gov/sites/default/files/everify/guides/E4en.pdf (last visited Mar. 28, 2025).
[16] E-Verify, *History and Milestones*, https://www.e-verify.gov/about-e-verify/history-and-milestones (last visited Mar. 28, 2025).
[17] E-Verify, *Verification Process*, for details on how the system works, https://www.e-verify.gov/employers/verification-process (last visited Mar. 28, 2025). Before using E-Verify, an employer must enroll and sign a Memorandum of Understanding that provides the terms of agreement between the employer and the DHS. *See* E-Verify, *The E-Verify Memorandum of Understanding for Employers*, https://www.e-verify.gov/sites/default/files/everify/memos/MOUforEVerifyEmployer.pdf (last visited Mar. 28, 2025).
[18] *Id*.
[19] *Id.*

E-Verify Defenses for Employers

According to federal law, an employer using the I-9 Form, establishing good faith compliance with the law, has established an affirmative defense that the person or entity has not violated the federal law with respect to such hiring, recruiting, or referring.[20]

An employer taking the additional steps to use the E-Verify system to verify employment eligibility may establish a rebuttable presumption that the person or entity has not violated the federal law with respect to such hiring, recruiting, or referring.[21]

The IRCA provides sanctions to be imposed on employers who knowingly employ aliens who are not authorized to work.[22] Federal law contains no criminal sanction for working without authorization, although document fraud is a civil violation.[23] The United States Citizenship and Immigration Services (USCIS) enforces these provisions.[24]

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2023	CS/HB 1617	Michael, Jacques	Ingoglia	The bill became effective July 1, 2023, except as otherwise provided.

OTHER RESOURCES:

U.S. Department of Homeland Security, E-Verify

Florida Department of Commerce, E-Verify Compliance

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Thompson
Commerce Committee				

[20] 8 U.S.C. s. 1324a(a)(3).
[21] 8 U.S.C. s. 1324a notes, *Pilot Programs for Employment Eligibility Confirmation*.
[22] 8 U.S.C. s. 1324a(a)(1)-(2).
[23] 8 U.S.C. s. 1324c.
[24] 8 U.S.C. s. 1324a.

A bill to be entitled

An act relating to employment eligibility; amending s. 448.095, F.S.; requiring that all private employers, rather than only those employing more than a specified number of employees, use the E-Verify system to verify a new employee's employment eligibility beginning on a specified date; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 448.095, Florida Statutes, is amended to read:

448.095 Employment eligibility.—

(2) EMPLOYMENT VERIFICATION.—

(b)1. A public agency shall use the E-Verify system to verify a new employee's employment eligibility as required under paragraph (a).

2. Beginning on July 1, 2025 ~~2023~~, a private employer ~~with 25 or more employees~~ shall use the E-Verify system to verify a new employee's employment eligibility as required under paragraph (a).

3. Each employer ~~required to use the E-Verify system under this paragraph~~ must certify on its first return each calendar year to the tax service provider that it is in compliance with this section when making contributions to or reimbursing the

state's unemployment compensation or reemployment assistance system. ~~An employer that voluntarily uses the E-Verify system may also make such a certification on its first return each calendar year in order to document such use.~~

Section 2. This act shall take effect July 1, 2025.

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

HB 1225

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 1225	**COMPANION BILL:** SB 918 (Collins)
TITLE: Employment of Minors	**LINKED BILLS:** None
SPONSOR(S): Miller	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Intergovernmental Affairs ➤ Commerce

SUMMARY

Effect of the Bill:

The bill removes restrictions in Florida's Child Labor Law (Child Labor Law) that govern the employment of minors 16 and 17 years-of-age, relating to time of day, number of hours, and meal breaks. The bill allows minors 14 and 15 years-of-age to work under certain circumstances. The bill also removes the authority of the Department of Business and Professional Regulation's (DBPR) to waive employment restrictions of minors.

Fiscal or Economic Impact:

Indeterminate. To the extent the bill will increase opportunities to generate income for certain individuals and employers, the bill may have an indeterminate positive economic impact on the private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill removes the following restrictions from the Child Labor Law on working hours for minors 16 and 17 years-of-age:

- Working before 6:30 a.m. or after 11 p.m. when school is scheduled the following day.
- Working for more than 8 hours in a day, when school is scheduled the following day, except on a holiday or Sunday.
- Working more than 30 hours in any one week when school is in session, which can be waived by a minor's parent or custodian, or the school superintendent or his or her designee, on a form prescribed by DBPR and provided to the minor's employer.
- On any school day, minors 16 and 17 years of age who are not enrolled in a career education program may not be gainfully employed during school hours.
- Working more than eight hours a day without a thirty minute break. (Section 1)

The bill allows, unless otherwise required by federal law, minors 14 and 15 years-of-age to work without their current restrictions:

- If they have graduated from high school or received a high school equivalent diploma.
- If they are enrolled in a home education, or virtual instruction program in which the minor is separated from the teacher by time only. (Section 1)

The bill revises the exemption from employment restrictions for minors who hold a valid certificate of exemption issued by the school superintendent to specify that this exemption only applies to minors 14 and 15 years of age. (Section 1)

The bill revises the exemption from employment restrictions for all minors who qualify on a hardship basis to specify they must be enrolled in a "public" education institution. (Section 1)

The bill removes DBPR's authority to grant waivers of the employment restrictions. (Section 1)

The effective date of the bill is July 1, 2025. (Section 2)

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

The bill may increase opportunities for certain minor children to work and generate income.

The bill may allow certain employers to employ certain minor children without having to comply with requirements in current law.

The bill may increase labor force participation among certain minor children, which may result in a reduction of obtaining higher skills, education, and healthcare for these individuals.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Florida Child Labor Law

DBPR's, Division of Regulation, administers and enforces Florida's Child Labor Law[1] through its Child Labor Program.[2] The "mission of the Child Labor Program is to provide a program of education, enforcement, and administrative initiatives designed to achieve full compliance in the enforcement of Child Labor laws and ensure the health, education and welfare of Florida's working minors."[3]

Florida's Child Labor Law defines "child" or "minor" as any person 17 years of age or younger, unless:[4]

- The person is or has been married;
- The person's disability of nonage has been removed by a court of competent jurisdiction;
- The person is serving or has served in the Armed Forces of the United States;
- It has been found by a court having jurisdiction over the person that it is in the best interest of such minor to work and the court specifically approves any employment of such person, including the terms and conditions of such employment; or
- The person has graduated from an accredited high school or holds a high school equivalency diploma.

Florida's Child Labor Law restricts the employment of minors, sometimes more than federal law.

Hours of Work in Certain Occupations

Currently, Florida's Child Labor Law prohibits minors 16 and 17 years-of-age from being employed during school hours, unless they are enrolled in a career education program.[5] These minors may not be employed, permitted, or suffered to work:

- Between 11 p.m. and 6:30 a.m. when school is scheduled the following day.

[1] *See* ss. 450.001-450.165, F.S.
[2] S. 450.155, F.S., provides that Child Labor Law program appropriations made by the Legislature shall be used to carry out the proper responsibilities of administering the Child Labor Law, to protect the working youth of the state, and to provide education about the Child Labor Law to employers, public school employees, the general public, and working youth.
[3] Florida Department of Business and Professional Regulation, Child Labor, http://www.myfloridalicense.com/DBPR/child-labor/ (last visited Mar. 26, 2025).
[4] S. 450.012(3), F.S.
[5] S. 450.081, F.S.

- For more than 8 hours in any one day, when school is scheduled the following day, except for holidays and Sundays.
- For more than 30 hours each week when school is in session, except for certain circumstances through a waiver.
- For eight hours or more a day without at least a 30 minute break.[6]

Florida's Child Labor Law further prohibits minors 15 years-of-age and younger from working:
- Between 7 p.m. and 7 a.m. when school is scheduled the following day.
- For more than 15 hours in any week when school is in session.
- For more than 3 hours a day on a school day, unless they are enrolled in a career education program or there is no school the following day.
- For more than six days per week.
- For more than four hours continuously without at least a 30 minute break.[7]

During holiday and summer vacations, minors 15 years-of-age and younger may not work:
- Between 9 p.m. and 7 a.m.
- For more than 8 hours per day.
- For more than 40 hours per week.[8]

These restrictions do not apply to:
- Minors 16 and 17 years-of-age who have graduated from high school or received a high school equivalency diploma.
- Minors who are within the compulsory school attendance age limit and who hold a valid certificate of exemption issued by the school superintendent or his or her designee pursuant to s. 1003.21(3), F.S.
- Minors enrolled in an educational institution who qualify on a hardship basis and receive a waiver as determined by the school superintendent.
- Minors 16 and 17 years-of-age who are in a home education program or are enrolled in an approved virtual instruction program in which the minor is separated from the teacher by time only.
- Minors in domestic service in private homes, minors employed by their parents, or pages in the Florida Legislature.[9]

Additionally, Florida's Child Labor Law provides that:
- DBPR may grant waivers of the restrictions laid out in s. 450.081, F.S.
- The presence of a minor in a place of employment during working hours is prima facie evidence of their employment at such place.
- An employer who violates s. 450.081, F.S., is subject to penalties in s.450.141, F.S.[10]

Partial Waivers

In extenuating circumstances when it clearly appears to be in the best interest of the child, DBPR is authorized to grant a waiver of the restrictions imposed by the Child Labor Law on the employment of a child. Such waivers are granted upon a case-by-case basis and based upon such factors as the department, by rule, establishes as determinative of whether such waiver is in the best interest of a child.[11]

DBPR, or the school district designee if the minor is enrolled in the public school system, is authorized to grant a waiver of any restriction imposed by the Child Labor Law, or by rule. In determining whether to grant a Partial Waiver, the Department shall consider all relevant information which may establish what is in the best interest of the minor, including:[12]

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[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] S. 450.095, F.S.
[12] R. 61L-2.007, F.A.C.

- **School Status**: DBPR, or the school district designee, is required to grant a partial waiver based on school status when:
    - The minor will receive instruction by a tutor at the place of employment;
    - The minor has been authorized by the District School Superintendent to complete his or her education through alternative methods such as home school;
    - The minor has been permanently expelled from the public school system;
    - The minor is enrolled in school in a foreign country and is visiting Florida during his or her home country's non-school period; or
    - The employment would provide an educational, vocational, or public service experience that would be beneficial to the minor.
        - Documentation shall consist of confirmation from the minor's school principal or the Superintendent of the School District and of copies of school records clearly defining the minor's school status.
- **Financial Hardship**: DBPR, or the school district designee, is required to grant a partial waiver based on financial hardship when compliance with the Child Labor Law or rule will result in undue financial hardship for the minor or the minor's immediate family. Documentation must include:
    - A notarized letter, explaining the particular circumstances creating a hardship, from a parent, guardian, or other adult, who knows and can attest to the minor's financial hardship; written confirmation from a school recently attended;
    - Documentation from a social service agency; or
    - Verification of participation in AFDC, Food Stamp, Project Independence, or other similar programs.
    - DBPR is authorized to require other documentation which proves financial hardship.
- **Medical Hardship**: DBPR, or the school district designee, must grant a partial waiver based on medical hardship when compliance with the Child Labor Law or rule will result in physical or mental hardship for the minor. Documentation may consist of written confirmation from the minor's physician stating the specific medical reasons that require the minor to be excused from mandatory school attendance and affirming that the minor to be excused from mandatory school attendance may be allowed to work the requested hours, or that the minor should be considered an adult for the purpose of work hours.
- **Other Hardship**: DBPR, or school district designee, must grant a partial waiver based on other hardship when compliance with the Child Labor Law or rule will result in unreasonable hardship to the minor in specific situations.
- **Court Order**: DBPR, or the school district designee, must grant a partial waiver based on a court order when compliance with the Child Labor Law or rule will result in the minor violating an order issued by a court mandating that the minor work specified hours or in a specified occupation.

According to DBPR, for the current fiscal year, the department has received 1,416 waiver applications. Of this amount, 639 have been approved and 777 have been found to be deficient.[13]

Enforcement

DBPR and local law enforcement are required to:[14]

- Enforce the provisions of the Child Labor Law;
- Make complaints against persons violating its provisions; and
- Prosecute violations.

DBPR is authorized to enter and inspect at any time any place or establishment covered by this law and to have access to age certificates kept on file by the employer and other records. Designated school representatives are required to report to DBPR all violations of the Child Labor Law.[15]

[13] Email from Derek Miller, Director of Legislative Affairs, Florida Department of Business and Professional Regulation, RE: Child Labor Partial Waivers, (Dec. 11, 2023).
[14] S. 450.121(1), F.S.
[15] S. 450.121(2), F.S.

The Child Labor Law also provides that:

- Trial courts in the state have the duty to issue warrants and try cases within their jurisdiction in connection with violations of the Child Labor Law.
- Grand juries have inquisitorial powers to investigate violations, and trial court judges shall specially charge the grand jury to investigate violations of the Child Labor Law.

The Child Labor Law provides the following penalties for violations:[16]

- Second degree misdemeanor, punishable by up to 60 days in prison[17] and a $500 fine.[18]
  - Each day during which any violation of this law continues, and the employment of any minor in violation of the law, constitutes a separate and distinct offense.
- Second degree felony, punishable by up to 15 years in prison,[19] a $10,000 fine,[20] or up to 30 years in prison for habitual offenders[21] any person who:[22]
  - Takes, receives, hires, employs, uses, exhibits, or, in any manner or under any pretense, causes or permits any child less than 18 years of age to suffer;
  - Inflicts upon any such child unjustifiable physical pain or mental suffering;
  - Willfully causes or permits the life of any such child to be endangered or his or her health to be injured or such child to be placed in such situation that his or her life may be endangered or health injured; or
  - Has in custody any such child for any of these purposes.

The Child Labor Law authorizes DBPR to provide administrative fines not to exceed $2,500 per offense.[23] Upon discovery by DBPR that an employer is in violation, it is required to give written notice to the employer specifying the violation, the facts alleged to constitute the violation, and the requirements and time limitations for remedial action. If the employer refuses or fails to comply, DBPR is authorized to seek assessment of the following schedule of fines:[24]

Violation	**1st Offense**	**2nd Offense**	**3rd and Subsequent Offenses**
Child Labor Poster	Up to $500	Up to $1,000	Up to $1,500
Employment of Minor	Up to $1,000	Up to $1,500	Up to $2,500
Proof of Age or Copy of Partial Waiver	Up to $700	Up to $1,200	Up to $2,000
Employment of Minor in Violation of Beverage law.	Up to $1,000	Up to $1,500	Up to $2,500
Work Hours or Consecutive Days	Up to $1,000	Up to $1,500	Up to $2500
Hazardous Occupation	Up to $1,500	Up to $2,000	Up to $2,500
Employment of minor in violation of any provision of Child Labor.	Up to $2,500	Up to $2,500	Up to $2,500
Law or this rule chapter which results in injury or death to minor.			
Violation of proof of age and identity requirements for Adult Theaters.	Up to $1,000	Up to $2,000	Up to $2,500
Any other violation of the Child Labor Law or this rule chapter.	Up to $1,000	Up to $1,500	Up to $2,500
Failure to provide records or documentation upon request.	Up to $500	Up to $1,200	Up to $2,000

[16] S. 450.141(1), F.S.
[17] S. 775.082, F.S.
[18] S. 775.083, F.S.
[19] S. 775.082, F.S.
[20] S. 775.083, F.S.
[21] S. 775.084, F.S.
[22] S. 450.151, F.S.
[23] S. 450.141(2), F.S.
[24] R. 61L-2.009, F.A.C.

Career Education Exemptions

Florida's Child Labor Law specifies that it does not:

- Prevent minors of any age from receiving career education furnished by the U.S., this state, or any county or other political subdivision of this state and duly approved by the Department of Education or other duly constituted authority, nor any apprentice indentured under a plan approved by the Department of Economic Opportunity; or
- Prevent the employment of any minor 14 years of age or older when such employment is authorized as an integral part of, or supplement to, such a course in career education and is authorized by regulations of the district school board of the district in which such minor is employed, provided the employment is in compliance with the provisions of ss. 450.021(4), F.S. and 450.061, F.S.

Exemptions for the employment of student learners 16 to 18 years-of-age provided in s. 450.061, F.S., apply when:[25]

- The student learner is enrolled in a youth vocational training program under a recognized state or local educational authority.
- Such student learner is employed under a written agreement that provides:
    - That the work of the student learner in the occupation declared particularly hazardous shall be incidental to the training.
    - That such work shall be intermittent and for short periods of time and under the direct and close supervision of a qualified and experienced person.
    - That safety instructions shall be given by the school and correlated by the employer with on-the-job training.
    - That a schedule of organized and progressive work processes to be performed on the job shall have been prepared.

Proof of Identity

In order to hire a child to work, the law requires an employer to obtain and keep on record during the entire period of employment proof of the child's age.[26] Employers who hire minors are also required to post posters notifying minors of the Child Labor Law.[27]

Federal Fair Labor Standards Act

The federal Fair Labor Standards Act (FLSA), enacted in 1938, provides covered workers with minimum wage, overtime pay, and child labor protections.[28] Congress adopted the FLSA to prevent substandard labor conditions from being used as an "unfair method of competition."[29] The FLSA covers employees and enterprises engaged in interstate commerce. An enterprise is covered if it has annual sales or business done of at least $500,000.[30] Regardless of the dollar volume of business, the FLSA applies to hospitals; institutions primarily engaged in the care of the sick, aged, mentally ill, or disabled who reside on the premises; schools for children who are mentally or physically disabled or gifted; federal, state, and local governments; and preschools, elementary and secondary schools, and institutions of higher education.[31]

The FLSA was adopted as a minimum set of standards, which allowed states to provide more protections for employees. Under the FLSA, if states enact minimum wage, overtime, or child labor laws that are more protective than what is provided by the FLSA, the state law applies.[32] Because states may enact laws that are more protective than what is provided by the FLSA, minimum wage, overtime, and child labor standards vary state by state.

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[25] S. 450.161, F.S.

[26] S. 450.045(1), F.S. Such proof must include photocopies of the child's birth certificate and driver license, an age certificate issued by the district school board of the district in which the child is employed, certifying the child's date of birth, or a photocopy of a passport or visa which lists the child's date of birth.

[27] S. 450.045(2), F.S.

[28] 29 U.S.C. § 201-219 and 29 C.F.R. ch. V.

[29] *Brooklyn Savings Bank V. O'Neil*. 324 U.S. 697 (1945).

[30] 29 C.F.R. §§779.258-779.259.

[31] 29 U.S.C. §203(s)(1).

[32] 29 U.S.C. § 218.

Child Labor
The FLSA prohibits the employment of "oppressive child labor" in the United States and the shipment of goods made in proximity to oppressive child labor.[33] The FLSA establishes a general minimum age of 16 years for employment in nonhazardous occupations, and a minimum age of 18 years for employment in any occupation determined by the Secretary of Labor to be hazardous to the health or well-being of minors. However, children younger than 16 may work if certain conditions are met, and rules for agricultural and nonagricultural employment vary significantly.[34]

Nonagricultural Employment – Minimum Standards
For nonexempt children, the minimum age for employment in nonagricultural occupations is:[35]

- 18 years-of-age for occupations determined by the Secretary of Labor to be hazardous to the health and well-being of children (i.e., "hazardous occupations");
- 16 years-of-age for employment in nonhazardous occupations; or
- 14 years-of-age for a limited set of occupations, with restrictions on hours and work conditions, as determined by the Secretary of Labor.

A child under the age of 14 may not be employed unless his or her employment is explicitly excluded from the definition of oppressive child labor (e.g., a parent is the child's sole employer in a nonhazardous occupation) or exempt from the FLSA child labor provisions (e.g., newspaper delivery).[36]

The hours and times of day that 14- and 15-year-olds are allowed to work and specific occupations that are permitted or prohibited for such minors in nonagricultural occupations are set by federal and state law.

The FLSA allows the employment of minors 14 and 15 years-of-age during the following hours and times-of-day:[37]

- Outside of school hours;[38]
- Not more than 40 hours in any 1 week when school is not in session;
- Not more than 18 hours in any 1 week when school is in session;
- Not more than 8 hours in any 1 day when school is not in session;
- Not more than 3 hours in any 1 day when school is in session, including Fridays; and
- Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

Oppressive Child Labor
The following occupations constitute oppressive child labor within the meaning of the FLSA when performed by minors who are 14 and 15 years-of-age:[39]

- Manufacturing, mining, or processing occupations.
- Occupations that the Secretary of Labor may, pursuant to section 3(l) of the FLSA, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being.
- Occupations that involve operating, tending, setting up, adjusting, cleaning, oiling, or repairing hoisting apparatus.
- Work performed in or about boiler or engine rooms or in connection with the maintenance or repair of the establishment, machines, or equipment.

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[33] 29 U.S.C. §212.
[34] Congressional Research Service, The Fair Labor Standards Act (FLSA): An Overview, (Mar. 8, 2023), https://crsreports.congress.gov/product/pdf/R/R42713 (last visited Mar. 26, 2025).
[35] 29 C.F.R. § 570.2.
[36] 29 C.F.R. § 570.119.
[37] 75 C.F.R. § 28448 (2010).
[38] 29 C.F.R. § 570.35(b) defines "school hours" as the hours that the local public school district where the minor resides while employed is in session during the regularly scheduled school year.
[39] 29 C.F.R. § 570.33.

- Occupations that involve operating, tending, setting up, adjusting, cleaning, oiling, or repairing any power-driven machinery, including but not limited to lawn mowers, golf carts, all-terrain vehicles, trimmers, cutters, weed-eaters, edgers, food slicers, food grinders, food choppers, food processors, food cutters, and food mixers. Youth 14 and 15 years of age may, however, operate office equipment pursuant to § 570.34(a) and vacuum cleaners and floor waxers pursuant to § 570.34(h).
- The operation of motor vehicles.
- Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes.
- All baking and cooking activities except that cooking which is permitted by § 570.34(c).
- Work in freezers and meat coolers and all work in the preparation of meats for sale except as permitted by § 570.34(j). This section, however, does not prohibit the employment of 14- and 15-year-olds whose duties require them to occasionally enter freezers only momentarily to retrieve items as permitted by § 570.34(i).
- Youth peddling, which entails the selling of goods or services to customers at locations other than the youth-employer's establishment, such as the customers' residences or places of business, or public places such as street corners and public transportation stations.
- Loading and unloading of goods or property onto or from motor vehicles, railroad cars, or conveyors, except the loading and unloading of personal non-power-driven hand tools, personal protective equipment, and personal items to and from motor vehicles as permitted by § 570.34(k).
- Catching and cooping of poultry in preparation for transport or for market.
- Public messenger service.
- Occupations in connection with transportation of persons or property, warehousing and storage, communications and public utilities, and construction (including demolition and repair).

Authorized Occupations

The FLSA allows the following occupations to be performed by minors 14 and 15 years-of-age when performed within the required timeframes:[40]

- Office and clerical work, including the operation of office machines.
- Work of an intellectual or artistically creative nature.
- Cooking with electric or gas grills which does not involve cooking over an open flame.
- Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping.
- Price marking and tagging by hand or machine, assembling orders, packing, and shelving.
- Bagging and carrying out customers' orders.
- Errand and delivery work by foot, bicycle, and public transportation.
- Clean up work, including the use of vacuum cleaners and floor waxers, and the maintenance of grounds, but not including the use of power-driven mowers, cutters, trimmers, edgers, or similar equipment.
- Kitchen work and other work involved in preparing and serving food and beverages.
- Cleaning vegetables and fruits, and the wrapping, sealing, labeling, weighing, pricing, and stocking of items.
- The loading onto motor vehicles and the unloading from motor vehicles of the light, non-power-driven, hand tools and personal protective equipment that the minor will use as part of his or her employment at the work site; and the loading onto motor vehicles and the unloading from motor vehicles of personal items such as a back pack, a lunch box, or a coat that the minor is permitted to take to the work site.
- The employment of 15-year-olds (but not 14-year-olds) to perform permitted lifeguard duties at traditional swimming pools and water amusement parks (including such water park facilities as wave pools, lazy rivers, specialized activity areas that may include water falls and sprinkler areas, and baby pools; but not including the elevated areas of power-driven water slides) when such youth have been trained and certified by the American Red Cross, or a similar certifying organization, in aquatics and water safety.
- Employment inside and outside of places of business where machinery is used to process wood products.
- Work in connection with cars and trucks if confined to dispensing gasoline and oil; courtesy service; car cleaning, washing and polishing by hand; and other occupations permitted by this section, but not including

[40] 29 C.F.R. § 570.34.

work involving the use of pits, racks, or lifting apparatus, or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.
- Work in connection with riding inside passenger compartments of motor vehicles.

Agricultural Employment – Minimum Standards

With some exceptions, the minimum age for employment in agricultural occupations is:

- 16 years-of-age for employment in any agricultural job, including those determined to be hazardous by the Secretary of Labor, with no restrictions on hours of work;[41]
- 14 years-of-age for employment in nonhazardous agricultural jobs, outside of school hours;[42]
- 12 years-of-age (up to 13 years) for employment in nonhazardous agricultural jobs, outside of school hours, with the written consent of a parent; written consent is not required if the work takes place on a farm that also employs the child's parent;[43]
- 10 years-of-age (and up to 11 years) for employment to hand-harvest select crops for up to eight weeks in nonhazardous agricultural jobs, outside of school hours, with the written consent of a parent, providing the employer has obtained a waiver permitting this employment from the Secretary of Labor;[44] or
- Any age (up to 12 years), for employment in nonhazardous agricultural jobs, outside of school hours on certain small farms, with a parent's written consent.[45]

A child of any age who is employed by a parent on a farm owned or operated by the parent may work without restriction.[46] DOL regulations also provide limited exemptions to child labor rules concerning hazardous agricultural occupations for student learners and graduates of vocational training programs that meet regulatory criteria.[47]

FLSA Child Labor Exemptions

The FLSA excludes the following occupations and work arrangements from coverage of its child labor provisions:

- **Children with a Parental Employer**: Children who work for a parent or a person standing in place of a parent[48] in an occupation other than manufacturing, mining, or hazardous work may be employed at any age and for any number of hours.[49]
- **Child Performers**: Children of any age may be employed as actors or performers in motion pictures or in theatrical, radio, or television productions.[50]

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[41] 29 C.F.R. § 570.2.

[42] 29 U.S.C. §213(c)(1)(C). DOL regulations identify the set of jobs and activities that—subject to hours-of-work restrictions—do not constitute oppressive child labor for children ages 14 and 15 years old; these are at 29 C.F.R. §570.33.

[43] 29 U.S.C. §213(c)(1)(B).

[44] The conditions under which the Secretary of Labor will grant a waiver permitting the employment of 10 and 11 year old children to harvest certain crops are in 29 U.S.C. 213(c)(4) and 29 C.F.R. § part 575. However, as DOL notes "the Department was enjoined from issuing such waivers in 1980 because of issues involving exposure, or potential exposure, to pesticides (see National Ass'n of Farmworkers Organizations v. Marshall, 628 F.2d 604 (DC Cir. 1980)). Therefore, no waivers have been granted under FLSA section 13(c)(4) for thirty years." DOL-WHD, "Child Labor Regulations, Orders and Statements of Interpretation; Child Labor Violations-Civil Money Penalties - A Proposed Rule," 75 Federal Register 54842, September 2, 2011.

[45] 29 U.S.C. §213(c)(1)(A). Applies to the employment of children on farms that are exempt from FLSA minimum wage provisions because they employed fewer than 500 "man-days of agricultural labor" during any calendar quarter in the previous calendar year. FLSA defines a man-day of agricultural labor as "any day during which an employee performs any agricultural labor for not less than one hour"; 29 U.S.C. §203(u).

[46] 29 U.S.C. §213(c)(2).

[47] 29 C.F.R. §570.72.

[48] Parent or person standing in place of a parent is defined in 29 C.F.R. §570.126 as including "natural parents, or any other person, where the relationship between that person and a child is such that the person may be said to stand in place of a parent. For example, one who takes a child into his home and treats it as a member of his own family, educating and supporting the child as if it were his own, is generally said to stand to the child in place of a parent."

[49] This exemption stems from the FLSA definition of oppressive child labor at 29 U.S.C. §203(1), which excludes children employed by a parent in most nonhazardous occupations. For children employed in nonagricultural work, the parent must be the sole employer for the exemption to hold. The parent need not be the sole employer for children working in agriculture on a farm owned or operated by the parent.

- **Newspaper Delivery Persons**: Children of any age may be employed to deliver newspapers to consumers.[51]
- **Evergreen Wreath Producers (Homebased)**: Children of any age may be employed as homeworkers to make evergreen wreaths and to harvest forest products used in making such wreaths.[52]

Hazardous Occupations

Seventeen groups of nonagricultural occupations have been determined to be hazardous or detrimental to the health or well-being of children between the ages of 16 and 18 years.[53] Employment in these jobs is prohibited, with limited exemptions for registered apprentices and student learners.[54] In some instances, children's employment is banned in entire industries (e.g., coal mining) with some exceptions for office, sales, or maintenance work; others prohibit children's exposure to materials (e.g., radioactive substances) or equipment (e.g., power-driven hoisting apparatus).

Eleven types of agricultural occupations have been determined to be hazardous, in which—with few exceptions—a child below the age of 16 may not be employed.[55] These include, for example, handling or applying certain agricultural chemicals, and working on a farm in a pen occupied by a stud horse maintained for breeding purposes. The prohibition on employment in agricultural hazardous occupations does not apply to children employed by a parent on a farm owned or operated by the parent.[56] When certain requirements are met, student learners and graduates of tractor or machine operation programs that meet regulatory criteria may be employed in select hazardous occupations.

FLSA Violations

Two remedies are available for violations of the FLSA child labor provisions. The Secretary of Labor may assess civil penalties or seek other relief, including injunctive relief. Employers who violate the FLSA child labor provisions may be assessed the following civil penalties:

- Up to $15,138 for each employee who was the subject of a child labor violation; or
- Up to $68,801 for each violation that causes the death or serious injury of a minor employee, a penalty may be doubled if the violation is a repeated or willful violation.[57]

U.S. district courts have jurisdiction to enjoin violations of the FLSA's child labor provisions.[58] For example, a federal court may order an employer to halt employment of a minor in a hazardous occupation or may enjoin a producer from shipping goods out of state from an establishment in or about which a child labor violation has occurred. Criminal penalties are also prescribed for willful violations of the FLSA's child labor provisions.[59]

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[50] 29 U.S.C. §213(c)(3).
[51] 29 U.S.C. §213(d).
[52] 29 U.S.C. §213(d).
[53] 29 C.F.R. §§570.50-570.68.
[54] The prohibition on minors' employment in the nonagricultural hazardous occupations applies even if the child is employed by a parent. The conditions under which a registered apprentice or student learner may participate in hazardous occupation tasks are described in 29 C.F.R. §570.50 (b) and (c).
[55] Hazardous agricultural occupations are described in 29 C.F.R. §570.71; exemptions to the ban on children's employment in hazardous agricultural occupations are in 29 C.F.R. §570.72.
[56] 29 U.S.C. §213(c)(2).
[57] These civil money penalties took effect on January 16, 2023, and are as adjusted for inflation as provided by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (P.L. 114-74).
[58] 29 U.S.C. §217.
[59] Congressional Research Service, The Fair Labor Standards Act (FLSA): An Overview, Mar.8, 2023, at 17 https://crsreports.congress.gov/product/pdf/R/R42713 (last visited Mar. 26, 2025).

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	CS/CS/HB 49	Chaney	Burgess	The bill became law on July 1, 2024.

OTHER RESOURCES:

U.S. Department of Labor Wage and Hour Division, Child Labor

Florida Department of Business & Professional Regulation, Child Labor

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Thompson
Intergovernmental Affairs Subcommittee				
Commerce Committee				

A bill to be entitled

An act relating to the employment of minors; amending s. 450.081, F.S.; removing certain employment restrictions for minors 16 and 17 years of age; revising the age at which certain employment restrictions do not apply, unless otherwise required by federal law; revising the exceptions to certain work restrictions; removing the authority of the Department of Business and Professional Regulation to grant a waiver of employment restrictions; providing an effective date.

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

Section 1. Section 450.081, Florida Statutes, is amended to read:

450.081 Hours of work in certain occupations.—

(1)(a) Minors 15 years of age or younger may not be employed, permitted, or suffered to work:

1. Before 7 a.m. or after 7 p.m. when school is scheduled the following day.

2. For more than 15 hours in any one week when school is in session.

(b) On any school day, minors 15 years of age or younger who are not enrolled in a career education program may not be

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

gainfully employed for more than 3 hours, unless there is no session of school the following day.

(c) During holidays and summer vacations, minors 15 years of age or younger may not be employed, permitted, or suffered to work before 7 a.m. or after 9 p.m., for more than 8 hours in any one day, or for more than 40 hours in any one week.

~~(2)(a) Minors 16 and 17 years of age may not be employed, permitted, or suffered to work:~~

~~1. Before 6:30 a.m. or after 11 p.m. when school is scheduled the following day.~~

~~2. For more than 8 hours in any one day when school is scheduled the following day, except when the day of work is on a holiday or Sunday.~~

~~3. For more than 30 hours in any one week when school is in session. However, a minor's parent or custodian, or the school superintendent or his or her designee, may waive the limitation imposed in this subparagraph on a form prescribed by the department and provided to the minor's employer.~~

~~(b) On any school day, minors 16 and 17 years of age who are not enrolled in a career education program may not be gainfully employed during school hours.~~

(2) ~~(3)~~ Minors 15 years of age or younger may not be employed, permitted, or suffered to work in any gainful occupation for more than 6 consecutive days in any one week.

(3) ~~(4)~~ Minors 15 years of age or younger may not be

employed, permitted, or suffered to work for more than 4 hours continuously without an interval of at least 30 minutes for a meal period; and for the purposes of this section ~~law~~, a period of less than 30 minutes is not deemed to interrupt a continuous period of work. ~~Minors 16 and 17 years of age who are employed, permitted, or suffered to work for 8 hours or more in any one day as authorized by this section may not be employed, permitted, or suffered to work for more than 4 hours continuously without an interval of at least 30 minutes for a meal period.~~

(4)~~(5)~~ Unless otherwise required by federal law, subsections (1)-(3) ~~(1)-(4)~~ do not apply to:

(a) Minors 14 ~~16~~ and 15 ~~17~~ years of age who have graduated from high school or received a high school equivalency diploma.

(b) Minors 14 and 15 years of age who are within the compulsory school attendance age limit and who hold a valid certificate of exemption issued by the school superintendent or his or her designee pursuant to s. 1003.21(3).

(c) Minors enrolled in a public ~~an~~ educational institution who qualify on a hardship basis, such as economic necessity or family emergency. The school superintendent or his or her designee shall make such determination and issue a waiver of hours to the minor and the employer. The form and contents thereof shall be prescribed by the department.

(d) Minors 14 ~~16~~ and 15 ~~17~~ years of age who are in a home

education program or are enrolled in an approved virtual instruction program in which the minor is separated from the teacher by time only.

(e) Minors in domestic service in private homes, minors employed by their parents, or pages in the ~~Florida~~ Legislature.

~~(6) The department may grant a waiver of the restrictions imposed by this section pursuant to s. 450.095.~~

(5)~~(7)~~ The presence of a minor in any place of employment during working hours is prima facie evidence of his or her employment therein.

(6)~~(8)~~ A violation of this section is ~~An employer who requires, schedules, or otherwise causes a minor to be employed, permitted, or suffered to work in violation of this section commits a violation of the law,~~ punishable as provided in s. 450.141.

Section 2. This act shall take effect July 1, 2025.

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

INDUSTRIES & PROFESSIONAL ACTIVITIES SUBCOMMITTEE

HB 1225 by Rep. Miller
Employment of Minors

AMENDMENT SUMMARY
April 1, 2025

Amendment 1 by Rep. Miller (between lines 17-18):

- Allows minors to work beginning the summer vacation of the calendar year in which they turn 14 years of age.

Amendment 2 by Rep. Miller (lines 32-35):

- Restricts minors 16 and 17 years of age from working after 10 pm.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Industries & Professional Activities Subcommittee

Representative Miller offered the following:

Amendment (with title amendment)

Between lines 17 and 18, insert:

(1) In accordance with federal law, a minor may be employed, permitted, or suffered to work beginning the summer vacation of the calendar year in which he or she turns 14 years of age.

(2)(a) Minors 15 years of age or younger may not be employed, permitted, or suffered to work:

1. Before 7 a.m. or after 7 p.m. when school is scheduled the following day.

2. For more than 15 hours in any one week when school is in session.

(b) On any school day, minors 15 years of age or younger who are not enrolled in a career education program may not be gainfully employed for more than 3 hours, unless there is no session of school the following day.

(c) During holidays and summer vacations, minors 15 years of age or younger may not be employed, permitted, or suffered to work before 7 a.m. or after 9 p.m., for more than 8 hours in any one day, or for more than 40 hours in any one week.

T I T L E A M E N D M E N T

Remove line 3 and insert:

s. 450.081, F.S.; authorizing minors to work beginning a certain timeframe; removing certain employment

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: Industries & Professional Activities Subcommittee

Representative Miller offered the following:

Amendment

Remove lines 32-35 and insert:

(2)~~(a)~~ Minors 16 and 17 years of age may not be employed, permitted, or suffered to work~~:~~

~~1.~~ before 6:30 a.m. or after 10 ~~11~~ p.m. when school is scheduled the following day.

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 1467	**COMPANION BILL:** SB 1404 (Simon)
TITLE: Gambling	**LINKED BILLS:** None
SPONSOR(S): Snyder	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Budget ➤ Commerce

SUMMARY

Effect of the Bill:

The bill strengthens penalties for illegal gambling, authorizes the operation of fantasy sports contests, clarifies employee prohibitions governing the Florida Gaming Control Commission, revises reporting requirements related to changes in ownership for pari-mutuel wagering permitholders, and preempts local governments from regulating gaming activities unless expressly provided in Florida law.

Fiscal or Economic Impact:

The bill may have an indeterminate positive impact on jail and prison beds and may have a positive fiscal impact on the Commission which may see an increase in revenues resulting from confiscation of contraband and receipt of fines levied pursuant to the bill.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

Florida Gaming Control Commission

The bill requires the Florida Gaming Control Commission (Commission) to include the following information in its annual report: the number of investigations that led to criminal charges being filed and the resolution of such criminal case; the number of complaints received by the Commission and a summary of the action taken on each complaint by the Commission; and a list of property seized by the Commission during the course of investigations, and the disposition of such property, including a list of forfeiture actions. (Section 1)

Commissioner and Commission Employee Restrictions

The bill revises the restrictions on Commissioners and Commission employees that prohibit employment certain types of employment immediately before and for 2 years after employment with the Commission to prohibit being an employee, owner, or contractor for any entity that conducts an activity regulated, enforced, or investigated by the Commission, including fantasy sports contests and other betting activities. (Sections 2 and 3)

Pari-Mutuel Wagering

The bill removes the 5 percent ownership interest threshold for inclusion as an "ultimate equitable owner," which must be reported to the Commission based on a change in ownership of a pari-mutuel permit, so that all changes in ownership will now require reporting. (Sections 4 and 5)

Escheated Harness Horse and Thoroughbred Horse Permits

The bill removes the authority of the Commission to reissue escheated harness horse and thoroughbred horse permits for failure of the permitholder to pay the required tax on handle for live performances. (Sections 6 and 7)

Bribery in Athletic Contests

The bill makes it a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., for anyone who stakes, bets, or wagers any money or other thing of value upon the result of any professional or amateur game, contest, match, race, or sport with knowledge that the results of such professional or amateur game, contest, match, race, or sport are prearranged or predetermined. (Section 8)

Keeping Gambling Houses

The bill increases penalties from a second degree misdemeanor to a third degree felony for violations related to keeping a gambling house, and adds penalties for habitual offenders. (Section 9)

Agents or Employees of Keepers of Gambling Houses

The bill increases the penalty for violations of being an agent or employee of a keeper of a gambling house from a second degree misdemeanor, to:

- **For a first offense**, a misdemeanor of the first degree, punishable by up to one year in county jail and a $1,000 fine (first degree misdemeanor).
- **For a second offense**, a felony of the third degree, punishable by up to five years in prison and a $5,000 fine (third degree felony).
- **For a third or subsequent offense**, a felony of the second degree, punishable by up to 15 years in prison and a $5,000 fine (second degree felony). (Section 10)

Renting a Gambling House

The bill increases the penalties for renting a gambling house from a second degree misdemeanor, to:

- **For a first offense**, a third degree felony.
- **For a second or subsequent offense**, a second degree felony. (Section 11)

Cardrooms

The bill manipulating or attempting to manipulate the playing cards, outcome, or payoff of a card game in a licensed cardroom by physical tampering or by use of any object, instrument, or device, whether mechanical, electrical, magnetic, or involving other means. It also makes it a felony of the third degree punishable by up to five years in prison and a $5,000 fine. (Section 12)

Fantasy Sports Contests

The bill authorizes fantasy sports contests to operate in Florida if they meet certain requirements, and provides civil and criminal penalties for violations. Specifically, the bill:

- Defines "fantasy sports contest" as a contest in which a participant pays an entry fee and manages a fantasy or simulation sports team composed of athletes from a professional sports organization with the opportunity to win a cash prize. The term includes a simulation sports game.
- Requires fantasy sports contests to meet the following requirements:
    - Prizes and awards for the winning participants are established and disclosed to contest participants before entry.
    - All winning outcomes reflect the relative knowledge and skill of the fantasy sports contest participant.
    - All winning outcomes are determined predominantly by accumulated statistical results of the performance of more than one individual.
    - A winning outcome may not be based on:
        - The score, point spread, or performance of a team or combination of teams.
        - The single performance of an individual in a single event or a pari-mutuel event, as the term "pari-mutuel" is defined in s. 550.002, F.S., as of January 1, 2025.
        - A game of poker or other card game.
        - The performance of participants in collegiate, high school, or youth sporting events.
    - Casino graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, dice, craps, roulette, or lotto, may not be displayed or depicted.
- Makes violations punishable by a fine of $1,000 in addition to civil and criminal penalties.
- Provides that an operator or owner of any website, platform, or application that offers fantasy sports contests in violation of this section is punishable by a fine of up to $100,000 per violation.
- Requires the Commission to investigate and refer violations for prosecution.

- Authorizes the Attorney General or state attorney to institute proceedings to enjoin any person found to be violating this section.
- Makes certain willful and knowing violations a first degree misdemeanor.
- Makes it a third degree felony for an operator or owner of any website, platform, or application to offer fantasy sports contests in violation of this section. (Section 13)

Games of Chance by Lot

The bill makes it a third degree felony, to:

- Set up, operate, conduct, promote, or receive in any manner whatsoever any money or other thing of value offered for the purpose of conducting games of chance by lot;
- Knowingly become the custodian or depositary of any money or other thing of value so offered; or
- Aid, assist, abet, or influence in any manner in any of such acts. (Section 14)

Exempted Activities

The bill repeals a redundant section of law that exempts certain types of gaming from criminal violations and penalties under the state gambling law. These activities – conduct approved in the 2021 Compact, amusement games, pari-mutuel games, slot machine games, cardroom games, and bingo games - are authorized separately in Florida laws. (Section 15)

Subsequent Lottery Offenses

The bill revises the first degree misdemeanor penalty for subsequent offenses of lottery convictions to specify that second or subsequent violations for which there is no penalty specified must have the offense reclassified to an offense of the next higher degree, instead of an automatic first degree misdemeanor, and adds penalties for habitual offenders. (Section 16)

The bill also specifies that for purposes of sentencing, a felony offense that is reclassified under this provision is ranked one level above the ranking under s. 921.0022 or s. 921.0023, F.S., of the felony offense committed. (Section 16)

Betting on Trials or Contests of Skill

The bill revises the third degree felony for anyone who stakes, bets, or wagers any money or other thing of value upon the result of any trial or contest of skill, to adds penalties for habitual offenders. (Section 17)

Slot Machines

The bill increases penalties for operators of businesses that manufacture, sell, or possess illegal slot machines, as follows:

- Creates the following graduated scale of criminal penalties:
  - **Makes it a first degree misdemeanor,** for general violations.
  - **Makes it a third degree felony**, for violations if:
    - At the time of the violation, the person was a person of authority; or
    - The person has one prior conviction for a violation.
  - **Makes it a second degree felony**, for violations that also include:
    - At the time of the violation, the person was a person of authority; and
    - The violation involves five or more slot machines or devices; or
    - The person has two or more prior convictions for a violation. (Section 18)
- Defines:
  - "Conviction" as a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.
  - "Ownership interest" as being an officer, director, or managing member of a business, establishment, premises, or other location at which a slot machine or device is offered for play.
  - "Person of authority" as a person who, at any business, establishment, premises, or other location at which a slot machine or device is offered for play, has:
    - Actual authority to act on behalf of the business, establishment, premises, or other location; or

- Any ownership interest in the business, establishment, premises, or other location. (Section 18)

Trafficking Slot Machines
The bill prohibits trafficking in slot machines or devices. Specifically, the bill creates a first degree felony for knowingly selling, purchasing, manufacturing, transporting, delivering, or bringing into this state more than 15 slot machines or devices or any part thereof, and provides the following schedule of fines for violations:

- $100,000 fine, if the offense involved more than 15, but less than 25 slot machines or devices or any parts thereof.
- $250,000 fine, if the offense involved 25 or more, but less than 50 slot machines or devices or any parts thereof.
- $500,000 fine, if the offense involved 50 or more slot machines or devices or any parts thereof. (Section 19)

The bill provides an exemption for the transportation of slot machines as provided for in 15 U.S.C. SS. 1171-1177. The bill directs all fines imposed and collected pursuant to this section to be deposited into the Pari-mutuel Wagering Trust Fund and used by the Commission for the enforcement of chapters 546, 550, 551, and 849, F.S. (Section 19)

Making False or Misleading Statements Regarding Legality of Slot Machines
The bill makes it a third-degree felony to knowingly and willfully make a materially false or misleading statement or disseminating false or misleading information regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device. (Section 20)

The bill makes it a second degree felony for violations that involve five or more slot machines or devices. (Section 20)

Catchall Criminal Penalties
The bill repeals a catchall provision for many of the crimes related to gambling because the bill creates penalties in each individual criminal section. (Section 21)

Transporting Persons to Facilitate Illegal Gambling
The bill creates the following penalties for transporting certain persons to facilitate illegal gambling:

- **First degree misdemeanor,** for knowingly and willfully transporting, or procuring the transportation of, five or more other persons into or within this state when a person knows or reasonably should know such transportation is for the purpose of facilitating illegal gambling.
- **Third degree felony**, if the violation includes:
  - The transport, or procurement of transportation of:
    - A minor or a person 65 years of age or older; or
    - 12 or more persons.
  - Second or subsequent violations. (Section 22)

The bill defines the term "illegal gambling" as any criminal violation of chapters 546, 550, 551, or 849, F.S., that occurs at any business, establishment, premises, or other location. (Section 22)

Preemption
The bill prohibits a county, municipality, or other political subdivision of the state from enacting or enforcing any ordinance or local rule relating to gaming, gambling, lotteries, or any activities described in s. 546.10, F.S., or ch. 849, F.S., except as otherwise expressly provided by the State Constitution, general law, or special law. (Section 23)

Criminal Punishment Code
The bill also amends the criminal punishment code to increase the OSRC ranking for specified gaming offenses. (Section 24)

Effective Date
The effective date of the bill is October 1, 2025. (Section 27)

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The fiscal impact to state government is indeterminate. The bill may have an indeterminate positive impact on the prison bed population by creating new gaming offenses, increasing penalties for specified current gaming offenses, and listing specified gaming offenses on the OSRC, which may result in increased admissions to jail and prison facilities and offenders serving longer terms of incarceration in such facilities.

The bill also creates new criminal fines for specified violations relating to illegal gambling and fantasy sports contests. This may create a positive fiscal impact to state governmental entities that receive proceeds from the related fines. This may also create a negative fiscal impact to those entities relating to administration of enforcement.

Specifically, the Commission may experience an increase in revenues resulting from increased confiscation of contraband under the bill. The bill also requires all fines imposed and collected for violations of trafficking in slot machines or devices to be deposited into the Pari-mutuel Wagering Trust Fund and authorizes the use of such funds by the Commission of the enforcement of chapters 546, 550, 551, and 849, F.S.

The Criminal Justice Impact Conference has not yet adopted an estimate for this bill.

LOCAL GOVERNMENT:

The fiscal impact to local government is indeterminate. The bill may have an indeterminate positive impact on the jail bed population by creating new gaming offenses, increasing penalties for specified current gaming offenses, and listing specified gaming offenses on the OSRC, which may result in increased admissions to jail facilities and offenders serving longer terms of incarceration in such facilities.

The bill also creates new criminal fines for specified violations relating to illegal gambling. This may create a positive fiscal impact to local governmental entities that receive proceeds from the related fines. This may also create a negative fiscal impact to those entities relating to administration of enforcement.
PRIVATE SECTOR:

The bill may help to prevent or reduce illegal gambling, which may protect vulnerable populations and reduce secondary criminal activity, including money laundering, drug trafficking, and violent crime.

Requiring fantasy sports contest operators to meet certain requirements in order to operate, and subjecting them to civil and criminal penalties for violations, may result in a negative fiscal impact to such operators.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Gambling in Florida

Gambling is generally prohibited in Florida, unless specifically authorized. Gambling is defined in Florida law as playing or engaging in any game at cards, keno, roulette, faro or other game of chance, at any place, by any device whatever, for money or other thing of value.[1] The standard jury instructions for criminal cases in Florida provide that in order to prove the crime of gambling, the state must prove the following three elements beyond a reasonable doubt:[2]

- Playing or engaging in a game of chance.
- Risking money or property on the outcome of the game.

[1] S. 849.08, F.S.
[2] The Florida Bar, Criminal Jury Instructions Chapter 22, 22.1 Gambling, https://www.floridabar.org/rules/florida-standard-jury-instructions/criminal-jury-instructions-home/criminal-jury-instructions/sji-criminal-chapter-22/ (last visited Feb. 21, 2024).

- Expecting to gain or lose money or property as a result of the game.

Gambling in Florida is highly regulated, and wagers on games that are not specifically authorized by law are considered illegal.

Section 7, Art. X, of the Florida Constitution prohibits lotteries, other than pari-mutuel pools, from being conducted in Florida.

Slot machines that are not operated by a licensed pari-mutuel facility or in accordance with a tribal compact or specific law are illegal in Florida.

Chapter 849, F.S., includes prohibitions against slot machines, keeping a gambling house, engaging in bookmaking, 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[3] wagering;[4]
- Gaming on tribal reservations in accordance with the federal Indian Gaming Regulatory Act and the 2021 Gaming Compact with the Seminole Tribe of Florida;
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;[5] and
- Cardrooms[6] at certain pari-mutuel facilities.

Under the Florida Contraband Forfeiture Act,[7] gambling proceeds, paraphernalia, and property may be seized as contraband. For example, a vehicle used for transporting an illegal slot machine is subject to seizure.[8]

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,[9] bingo,[10] charitable drawings,[11] game promotions (sweepstakes),[12] bowling tournaments,[13] and skill-based amusement games and machines at specified locations.[14]

[3] "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.
[4] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.
[5] *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.
[6] 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."
[7] Ss. 932.701-932.706, F.S., comprise the Florida Contraband Forfeiture Act.
[8] S. 849.36, F.S.
[9] S. 849.085, F.S.
[10] S. 849.0931, F.S.
[11] S. 849.0935, F.S.
[12] S. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.
[13] S. 849.141, F.S.
[14] S. 546.10, F.S.

Florida Gaming Control Commission

The Commission is a five-member regulatory body that is responsible for exercising all regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts, and other forms of gambling authorized by the State Constitution or law, excluding the state lottery.[15] The Commission is also the State Compliance Agency responsible for monitoring compliance with the provisions of the Gaming Compact between the Seminole Tribe of Florida and the State of Florida.[16]

The Division of Gaming Enforcement (Division) is a criminal justice agency[17] tasked with the enforcement of Florida's gambling laws to combat illegal gambling activities.[18] While every law enforcement officer in the state of Florida has the authority to make arrests for violations of Florida's gambling laws, the Division is the first law enforcement agency whose primary responsibility is investigating illegal gambling.[19]

Illegal Gambling

According to reports, illegal gambling operations targeting vulnerable aging populations in Florida are increasing. The activity has especially grown since the pandemic with an "explosion of illegal gambling lounges opening up with unregulated slot machines."[20]

According to the Commission, "some of them register as amusement arcades through the Department of Revenue, which means they're acting like a Dave and Buster's or a Chuck E. Cheese, but in reality, they're offering illegal gambling devices such as slot machines. If the game has any element of chance built into it, under Florida statute, it's considered an illegal gambling device. They have the ability to dial up the winnings to entice play. Once they get a packed house, they dial down the winnings to almost zero. Then at that point, they're just stealing and using predatory practices and taking money from Florida's senior population."[21]

In 2023, the Commission investigated several illegal slot machine businesses operating in the state, and found that:[22]

- The scope of the problem is much larger than initially anticipated.
- There are significant adverse harms associated with the activity.
- Successfully shutting down such businesses will require collaborative and coordinated efforts.
- Obstacles will continue to evolve but can be overcome.

According to the Commission, during the 2023-2024 fiscal year, the Commission received over 2,000 complaints of unauthorized, illegal, or otherwise criminal gaming activities. These illegal gaming activities include backroom poker games, illegal slot machines and casinos, and illegal sports betting websites that fail to pay out wagers.[23]

The Commission participated in the following enforcement activities from the past fiscal year:[24]

- Nearly 1,000 illegal slot machines seized (with nearly 1,200 more to date in FY 2024-2025);
- More than $3.3 million of illicit funds seized (with nearly $700,000 more to date in FY 2024-2025);
- More than a dozen illegal casinos closed; and
- Outreach and ongoing collaboration with dozens of local, state, and federal law enforcement agencies.

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[15] *See* ss. 16.71-16.716, F.S.
[16] S. 285.710, F.S.
[17] S. 16.711(1), F.S.
[18] Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023*, pg. 6, https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf (last visited Feb. 21, 2024).
[19] Florida Gaming Control Commission, *Gaming Enforcement*, https://flgaming.gov/enforcement/ (last visited Feb. 21, 2024).
[20] Jordan Brown, *Florida seniors warned to be cautious of shady slot machines*, FOX 13 Tampa Bay (May 23, 2023), https://www.fox13news.com/news/illegal-gambling-operations-in-florida-re-targeting-aging-populations (last visited Mar. 25, 2025).
[21] *Id.*
[22] Florida Gaming Control Commission, Presentation to the House Regulatory Reform & Economic Development Subcommittee, (Oct. 17, 2023).
[23] Florida Gaming Control Commission, *Gaming Enforcement Investigations and Actions*, *Annual Report 2023-2024*, at pg. 8, https://flgaming.gov/pmw/annual-reports/docs/2023-2024-FGCC-Annual-Report.pdf (last visited Mar. 25, 2025).
[24] *Id.*

Commission Annual Report

By December 1 of each year, the Commission is required to make an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include, in part, a summary of actions taken and investigations conducted by the Commission.[25]

Commission Appointment and Employment Restrictions

Commissioners and Commission employees are restricted from certain activities for two years before and after their appointment or employment with the Commission. The restricted activities include:[26]

- Being permitted or licensed to conduct pari-mutuel wagering, slot machine gaming, a cardroom, other authorized gaming, or an officer, official, employee, or equitable owner[27] of such permitholder or licensee.
- Being an officer, official, employee, other person with duties or responsibilities, contractor, or ultimate equitable owner relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state;
- Being a registered lobbyist for the executive or legislative branch, except while a commissioner or employee of the commission when officially representing the commission or while employed by a state agency during the normal course of employment; or
- Being a bingo game operator or an employee of a bingo game operator.

Commission Standards of Conduct

Commissioners, Commission employees, and certain family members are restricted from certain activities during service or employment and for 2 years after service or employment. The restricted activities, in part, include:[28]

- **Employment or business activities**: While employed, and for 2 years after service as a Commissioner or for 2 years after employment with the Commission, a Commissioner or an employee may not accept any form of employment with or engage in any business activity with any business entity that, either directly or indirectly, owns or controls any person regulated by the Commission; any person regulated by the Commission; or any business entity that, either directly or indirectly, is an affiliate or subsidiary of any person regulated by the Commission.
- **Financial interests**: While employed, and for 2 years after service as a commissioner or for 2 years after employment with the Commission, a Commissioner, an employee, or a relative living in the same household as a Commissioner or an employee may not have any financial interest, other than shares in a mutual fund, in any person regulated by the Commission; in any business entity that, either directly or indirectly, owns or controls any person regulated by the Commission; or in any business entity that, either directly or indirectly, is an affiliate or a subsidiary of any person regulated by the Commission. If a Commissioner, an employee, or a relative living in the same household as a Commissioner or an employee acquires any financial interest prohibited by this subsection during the Commissioner's term of office or the employee's employment with the Commission as a result of events or actions beyond the Commissioner's, the employee's, or the relative's control, he or she shall immediately sell such financial interest.

Former Commissioners and Employees

Commissioners are prohibited, for the 2 years immediately following the date of resignation or termination, from:[29]

- Being permitted or licensed to conduct pari-mutuel wagering, slot machine gaming, a cardroom, other authorized gaming, or an officer, official, employee, or equitable owner of such permitholder or licensee.
- Being employed or compensated by anyone regulated by the Commission or by a business entity or trade association that has been a party to a Commission proceeding within the 2 years preceding the member's resignation or termination of service on the Commission; or
- Being a bingo game operator or an employee of a bingo game operator.

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[25] S. 16.712(3)(h), F.S.
[26] S. 16.713(2)(a), F.S.
[27] S. 550.002(37), F.S., defines "ultimate equitable owner" as a "natural person who, directly or indirectly, owns or controls 5 percent or more of an ownership interest in a corporation, foreign corporation, or alien business organization, regardless of whether such person owns or controls such ownership through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof."
[28] S. 16.715(1)(b), F.S.
[29] S. 16.715(2)(b), F.S.

Commission employees are also prohibited from, for the 2 years immediately following the date of termination or resignation from employment with the Commission, the following activities:[30]

- Being permitted or licensed to conduct pari-mutuel wagering, slot machine gaming, a cardroom, other authorized gaming, or an officer, official, employee, or equitable owner of such permitholder or licensee.
- Being a bingo game operator or an employee of a bingo game operator.

Pari-mutuel Wagering

The Florida Pari-mutuel Wagering Act (Act)[31] provides specific permitting and licensing requirements for the conduct of the pari-mutuel industry.[32] 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.[33] Permitholders apply for an operating license annually to conduct pari-mutuel wagering activities.[34] Certain permitholders are also authorized to operate cardrooms[35] and slot machines at their facility.[36]

The Act generally requires that any transfer or assignment of a permit receive prior approval[37] by the Commission, which must determine the eligibility[38] of persons and entities to hold a permit. Similarly, if a permit is held by a corporation or business entity other than an individual, the transfer of ten percent or more of the stock or other evidence of ownership or equity in the permitholder may not be made without the prior approval of the transferee by the Commission.[39]

Ultimate Equitable Owner

"Ultimate equitable owner" is defined as "a natural person who, directly or indirectly, owns or controls 5 percent or more of an ownership interest in a corporation, foreign corporation, or alien business organization, regardless of whether such person owns or controls such ownership through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof."[40]

Changes in Ownership Requirements

A pari-mutuel wagering permit may not be transferred or assigned except upon written approval by the Commission, except that the holder of any permit that has been converted to a jai alai permit may lease or build anywhere within the county in which its permit is located.[41] The requirements are based on percentages of changes in ownership interest, as follows:

- If a permit is held by a corporation or business entity other than an individual, the transfer of 10 percent or more of the stock or other evidence of ownership or equity in the permitholder may not be made without the prior approval of the transferee by the Commission.[42]
- Changes in ownership or interest of a pari-mutuel permit of 5 percent or more of the stock or other evidence of ownership or equity in the permitholder must be approved by the Commission prior to such change, unless the owner is an existing owner of that permit who was previously approved by the Commission.[43]

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[30] S. 16.715(3)(c), F.S.
[31] Ch. 550, F.S.
[32] S. 550.054(1), F.S.
[33] S. 550.054(2), F.S.
[34] S. 550.0115, F.S.
[35] S. 849.086, F.S.
[36] S. 551.104, F.S.
[37] There is one exception to the prior-approval requirement in s. 550.054(11)(a), F.S., which is that the holder of a permit converted to a jai alai permit "may lease or build anywhere within the county in which its permit is located." As of 2021, such conversions are prohibited. *See* s. 550.054(15)(d), F.S.
[38] *See* s. 550.1815, F.S.
[39] S. 550.054(11)(b), F.S.
[40] S. 550.002(37), F.S.
[41] S. 550.054(11)(a), F.S.
[42] S. 550.054(11)(b), F.S.
[43] S. 550.054(12), F.S.

- Changes in ownership or interest of a pari-mutuel permit of less than 5 percent shall be reported to the Commission within 20 days of the change. The Commission may then conduct an investigation to ensure that the permit is properly updated to show the change in ownership or interest.[44]

Escheated Harness Horse Permits

Currently, the tax on handle for live harness horse performances is 0.5 percent of handle per performance.[45] The permit of a harness horse permitholder who is conducting live harness horse performances and who does not pay tax on handle for any such performances conducted during any 2 consecutive state fiscal years is void and may not be reissued unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, hurricane, pandemic, or other disaster or event beyond the ability of the permitholder to control. Financial hardship does not constitute just cause for failure to operate and pay tax on handle.[46]

The Commission is authorized to reissue an escheated harness horse permit to a qualified applicant for the issuance of an initial permit without having to satisfy the referendum requirements for a pari-mutuel permit. As specified in the application and upon approval by the Commission, the new permitholder is authorized to operate a harness horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2), F.S., relating to mileage limitations.[47]

Escheated Thoroughbred Permits

Currently, the tax on handle for thoroughbred horserace performances is 0.5 percent of handle per performance.[48] The permit of a thoroughbred permitholder who is conducting thoroughbred performances and who does not pay tax on handle for any such performances conducted during any 2 consecutive state fiscal years is void and may not be reissued unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, hurricane, pandemic, or other disaster or event beyond the ability of the permitholder to control. Financial hardship does not constitute just cause for failure to operate and pay tax on handle.[49]

The Commission is authorized to reissue an escheated thoroughbred horse permit to a qualified applicant for the issuance of an initial permit without having to satisfy the referendum requirements for a pari-mutuel permit. As specified in the application and upon approval by the Commission, the new permitholder is authorized to operate a thoroughbred horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2), F.S., relating to mileage limitations.[50]

Bribery in Athletic Contests

Currently, bribery in athletic contests is a third degree felony. The law applies to:[51]

- Anyone who gives, promises, or offers a bribe, money, goods, or any valuable thing with the intent to influence a participant, official, owner, manager, coach, trainer, or relative of a participant to lose or cause to be lost any game, contest, match, race, or sport, or to limit the margin of victory, or to fix or throw any game;
- Any participant or prospective participant in any professional or amateur game, contest, match, race or sport, including officials, owners, coaches, trainers, or their relatives.

Keeping a Gambling House

Currently, it is a second degree misdemeanor[52] to keep a gambling house.[53] Specifically, a person is guilty of this offense if he or she:

- Habitually keeps, exercises, or maintains, for the purpose of gaming or gambling:[54]

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[44] *Id.*
[45] S. 550.09512(2)(a), F.S.
[46] S. 550.09512(3)(a), F.S.
[47] S. 550.09512(3)(b), F.S.
[48] S. 550.09515(2)(a), F.S.
[49] S. 550.09515(3)(a), F.S.
[50] S. 550.09515(3)(b), F.S.
[51] S. 838.12, F.S.
[52] *See* ss. 775.082 and 775.083, F.S.
[53] s. 849.01, F.S. (A second degree misdemeanor is punishable by up to 60 days in jail and a fine up to $500).

- A gaming table or room;
- Gaming implements;
- Gaming apparatus; or
- A house, booth, tent, shelter, or other place.

Such penalty also applies to:

- Agents or employees of a keeper of a gambling house.[55]
- Anyone renting a house for gambling purposes.[56]

Cardrooms

Currently, cardrooms are authorized at certain pari-mutuel facilities.[57] Under current law, notwithstanding any other provision of law, a pari-mutuel permitholder (other than a limited thoroughbred permitholder) may not be issued a license for 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.[58] An initial cardroom license may be issued to a pari-mutuel permitholder only after its facilities are in place and after it conducts its first day of pari-mutuel activities on live racing or games.[59]

A licensed pari-mutuel permitholder that holds a valid pari-mutuel permit may hold a cardroom license authorizing the operation of a cardroom and the conduct of authorized games at the cardroom.[60] An authorized game is a game or series of games of poker or dominoes.[61] Such games must be played in a non-banking manner,[62] where the participants play against each other, instead of against the house (cardroom).

Prohibited activities of cardrooms include the following:[63]

- Conducting any banking game or game not specifically authorized, or any game that violates the exclusivity provided in the gaming compact.
- Allowing persons under 18 years of age to hold a cardroom or employee license, or engage in any game.
- Allowing electronic or mechanical devices, except mechanical card shufflers to be used to conduct any authorized game in a cardroom.
- Allowing cards, game components, or game implements to be used in playing an authorized game unless such has been furnished or provided to the players by the cardroom operator.

Fantasy Sports Contests

Generally, fantasy sports contests are any of a number of games that permit a person to pay an entry fee and play either a virtual game or a virtual season of a sport based on the performance statistics of real sports players. The player acts as both general manager and field manager of their team by building a roster through a draft and trades. Players make lineups in pursuit of statistically beating other players. The term "commissioner" has been used in the context of fantasy leagues to denote a person who manages a fantasy league, establishes league rules, resolves disputes over rule interpretations, publishes league standings, or selects the Internet service for publication of league standings.[64]

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[54] s. 849.01, F.S.; *Ferguson v. State*, 377 So. 2d 709, 711 (Fla. 1979) (requiring an element of "habitualness" for a conviction under s. 849.01, F.S.).
[55] S. 849.02, F.S.
[56] S. 849.03, F.S.
[57] S. 849.086, F.S.; 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 charged a fee for participation by the operator of such facility.
[58] S. 849.086(5), F.S.
[59] *Id*.
[60] Ss. 849.086(5) and (6), F.S.
[61] *See* s. 849.086(2)(a), F.S.
[62] *Id.*
[63] S. 849.086(12), F.S.
[64] *See* Bernhard & Eade, *Gambling in a Fantasy World: An Exploratory Study of Rotisserie Baseball Games,* 9 UNLV Gaming Research & Review Journal Issue 1, at 30, at http://digitalscholarship.unlv.edu/grrj/vol9/iss1/3/ (last visited Mar. 25, 2025).

Daily fantasy sports contests are an accelerated version of fantasy sports contests, which are played across a shorter period of time. For example, daily fantasy contests may be played over a single week in a season, rather than the entire season. Daily fantasy contests are typically played as "contests" which require an entry fee. The fee funds an advertised prize pool from which the fantasy contest operator (such as FanDuel or DraftKings) takes a percentage as revenue.[65] The legality of daily fantasy contests has been challenged in many states and jurisdictions, with some critics arguing that the contests more closely resemble proposition wagering on athlete performance than traditional fantasy contests.

Legality of Fantasy Sports Contests in Florida

Florida law does not specifically address fantasy sports contests. Currently, there is no constitutional, statutory, or regulatory framework expressly allowing for fantasy contests to be conducted in Florida. Moreover, Florida courts have not addressed whether Florida's constitutional and statutory prohibitions on gambling apply to fantasy contests. Florida's Attorney General has opined in the past that certain fantasy contests appear to violate state gambling laws.[66]

Current law provides that a stake, bet, or wager of money or another thing of value placed "upon the result of any trial or contest of skill, speed, power, or endurance of human or beast" is unlawful. Receiving money or acting as the custodian or depositary of money as part of such a stake, bet, or wager is also unlawful.[67]

Florida's anti-bookmaking law, defines bookmaking as "the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever."[68] The law includes factors that are to be considered evidence of bookmaking, including charging a percentage on accepted wagers, receiving more than five wagers in a day, and receiving over $500 in total wagers in a single day or over $1500 in a single week.[69]

On January 8th, 1991, Florida Attorney General (AG) provided an advisory legal opinion[70] regarding whether participation in a fantasy sports league violated Florida's gambling laws. The opinion concluded that the operation of a fantasy league would violate s. 849.14, F.S., and that since the fantasy sports league's entry fee was used to make up the prizes, it qualified as a "stake, bet, or wager" under Florida law.[71] The AG stated that, "while the skill of the individual contestant picking the members of the fantasy team is involved, the prizes are paid to the contestants based upon the performance of the individual professional football players in actual games."[72]

The AG concluded that contests in which the skill of the contestant predominates over the element of chance, such as in certain sports contests, are not prohibited lotteries. As an example, he noted that golf and bowling tournaments were contests of skill and were not prohibited. He considered that "it might well be argued that skill is involved in the selection of a successful fantasy team by requiring knowledge of the varying abilities and skills of the professional football players who will be selected to make up the fantasy team."[73]

Recently, the Commission has issued cease and desist correspondence to various companies operating fantasy contests in the state concerning possible violations of Florida's gambling laws. The letters have generated

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[65] Adam Kilgore, The Washington Post, *Daily fantasy sports Web sites find riches in Internet gaming law loophole*, (Mar. 27, 2015) https://www.washingtonpost.com/sports/daily-fantasy-sports-web-sites-find-riches-in-internet-gaming-law-loophole/2015/03/27/92988444-d172-11e4-a62f-ee745911a4ff_story.html, (last visited Mar. 25, 2025).
[66] 91-03 Fla. Op. Att'y Gen. (1991).
[67] S. 849.14, F.S.
[68] S. 849.25, F.S.
[69] S. 849.25(1)(b), F.S.
[70] 91-03 Fla. Op. Att'y Gen. (1991).
[71] *Creash v. State*, 131 Fla. 111, 118 (Fla. 1938).
[72] 91-03 Fla. Op. Att'y Gen. (1991).
[73] *Id.* Also, a 1990 Florida Attorney General advisory legal opinion provides that a golf hole-in-one contest, which is an exercise of skill, with an entry fee where such fee does not go toward the purse or prize does not violate the state's gambling laws. 90-58 Fla. Op. Att'y Gen. (1990).

controversy, concern, and interest from contest operators, elected officials, and the Seminole Tribe of Florida, which has entered into gaming compacts with the state.[74]

Legality of Fantasy Sports in Federal Law

The federal Unlawful Internet Gambling Enforcement Act of 2006[75] (UIGEA) prohibits the processing of certain online financial wagering to prevent payment systems from being used in illegal online gambling. The UIGEA prohibits gambling businesses from knowingly accepting payments in connection with a "bet or wager" that involves the use of the Internet and that is unlawful under any federal or state law.

The UIGEA expressly states that participation in fantasy or simulation sports contests is not included in the definition of "bet or wager"[76] when certain conditions are met. For purposes of the UIGEA, participation in a fantasy or simulation sports contest is not a bet or wager when:

- Prizes and awards offered to winning participants are established and made known in advance of the game or contest and the value is not determined by the number of participants or amount of fees paid by the participants.
- Winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals.
- Winning outcomes are not based on the score, point spread, or any performance of any single sports team or combination of such teams or solely on a single performance of an individual athlete in a single sporting event.

Contest operators argue that they are legal under the UIGEA. In *Humphrey v. Viacom, Inc.*, the court determined that because the entry fee was paid "unconditionally," the owner did not participate, and the prizes were guaranteed and determined in advance, the fantasy contest entry fees were not "wagers" under the act.[77] However, although the UIGEA exempts fantasy and simulation sports contests from the application of the UIGEA, it does not make such contests legal generally. The UIGEA does not change or preempt any other federal or state law. As expressed in the Rule of Construction in the UIGEA, "no provision of this subchapter shall be construed as altering, limiting, or extending any federal or state law or tribal-state compact prohibiting, permitting, or regulating gambling within the United States."[78] Therefore, any other state or federal law could apply.

The federal Illegal Gambling Business Act of 1970 (IGBA)[79] defines an "illegal gambling business" as a gambling business that is in violation of the law of the state in which it is conducted, involves five or more persons who conduct or manage all or part of such business, and that has been in continuous operation for a period of more than 30 days or has a gross revenue of $2000 in a single day. The IGBA specifically exempts savings promotion raffles and bingo games, lotteries, or other games of chance operated by certain non-profit corporations.[80] An employee or company that has violated the IGBA is subject to penalties including fines, forfeiture of profits and assets, and imprisonment for up to 5 years.

Fantasy Sports Contests in the 2021 Gaming Compact

The Seminole Indian Tribe of Florida (the Tribe) is a federally recognized Indian tribe whose reservations and trust lands are located in the State. A Gaming Compact between the Tribe and the State of Florida was executed by Governor Ron DeSantis and the Tribe on April 23, 2021 (the 2021 Compact). The 2021 Compact was approved by the U.S. Department of the Interior on August 6, 2021, and became effective upon the publication of notice in the Federal Register on August 11, 2021.[81]

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[74] Florida Trend, *Questions Swirl Around Fantasy Sports*, https://www.floridatrend.com/article/38854/questions-swirl-around-fantasy-sports (last visited Mar. 25, 2025).
[75] 31 U.S.C. § 5361-5366 (2006).
[76] 31 U.S.C. § 5362(1) (2006).
[77] *Humphrey v. Viacom, Inc.*, 2007 WL 1797648 (D.N.J. June 20, 2007).
[78] 31 U.S..C. § 5361(b) (2006).
[79] 18 U.S.C. § 1995 (1970).
[80] *See* 26 U.S.C. § 501.
[81] Fed. Register, Vol. 86, No. 153 at 44037.

Under the 2021 Compact, "fantasy sports contest" means a fantasy or simulation sports game or contest offered by a contest operator or a noncommercial contest operator in which a contest participant manages a fantasy or simulation sports team composed of athletes from a professional sports organization and that meets each of the following requirements:

- All prizes and awards offered to winning contest participants are established and made known to the contest participants in advance of the game or contest.
- All winning outcomes reflect the relative knowledge and skill of the contest participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.
- No winning outcome is based on the score, point spread, or any performance or performances of any single actual team or combination of such teams, solely on any single performance of an individual athlete or player in any single actual event, on a pari-mutuel event, as the term "pari-mutuel" is defined in s. 550.002, Florida Statutes, as of January 1, 2021, on a game of poker or other card game, or on the performances of participants in collegiate, high school, or youth sporting events.
- No casino graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, dice, craps, roulette, or lotto, are displayed or depicted.

The 2021 Compact allows the Tribe to offer fantasy sports contests at all their facilities. However, the 2021 Compact does not include fantasy sports contests in the games for which the Tribe is granted exclusivity to conduct in the state.

Games of Chance by Lot

Currently, it is a second degree misdemeanor to set up, promote or play any game of chance by lot or with dice, cards, numbers, hazards or any other gambling device whatever for, or for the disposal of money or other thing of value or under the pretext of a sale, gift or delivery thereof, or for any right, share or interest.[82]

Exempted Activities

Currently, gaming conducted under the 2021 Compact, amusement games, pari-mutuel games, slot machine games, cardroom games, and bingo games, are exempt from violations and penalties under the state gambling law.[83]

Subsequent Lottery Offenses

Currently, it is a first degree misdemeanor to be convicted of a subsequent offense forbidden by law in connection with lotteries.[84]

Betting on Trials or Contests of Skill

Currently, it is a third degree felony for anyone who:[85]

- Stakes, bets, or wagers any money or other thing of value upon the result of any trial or contest of skill, speed or power or endurance of human or beast;
- Receives in any manner whatsoever any money or other thing of value staked, bet, or wagered, or offered for the purpose of being staked, bet, or wagered, by or for any other person upon any such result;
- Knowingly becomes the custodian or depositary of any money or other thing of value so staked, bet, or wagered upon any such result; or
- Aids, assists, abets, or influences in any manner in any of such acts.

Slot Machines

In Florida, a slot machine is defined as a machine or device that:[86]

- Is activated by inserting something of value (money, coin, account number, code, or other object or information);
- Is caused to operate or operated by a user **by application of skill, element of chance, or other outcome that is unpredictable to the user**; and

[82] S. 849.11, F.S.
[83] S. 849.142, F.S.
[84] S. 849.13, F.S.
[85] S. 849.14, F.S.
[86] S. 849.16(1), F.S.

- The user receives or is entitled to receive something of value or additional chances or rights to use the device or machine.

There is a rebuttable presumption that a device, system, or network is a prohibited slot machine or device if it is used to display images of games of chance and is part of a scheme involving any payment or donation of money or its equivalent and awarding anything of value.[87]

Slot machines are only authorized in licensed pari-mutuel facilities located in Miami-Dade and Broward counties and on tribal property.[88] At any location other than licensed pari-mutuel facilities, it is a violation to "manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or permit the operation of any slot machine or device or any part thereof."[89]

A person who violates the prohibitions[90] against manufacturing, selling, or possessing slot machines or devices commits a:[91]

- Second degree misdemeanor upon a first conviction.[92]
- First degree misdemeanor upon a second conviction.[93]
- Third degree felony upon a third or subsequent conviction, and the person is deemed a "common offender."[94]

Unlicensed slot machines are illegal in Florida and are considered "contraband." Relating to contraband, Florida law specifies, "the right of property in and to any [illegal slot machine or device] and to all money and other things of value therein, is declared not to exist in any person, and…shall be forfeited…to the county in which the seizure was made."[95]

Florida law also provides that all sums of money and other value used, displayed in, or connected with illegal gambling or an illegal gambling device contrary to the laws of this state shall be forfeited.[96]

Pursuant to the federal Johnson Act, Florida law allows the shipment of gaming devices including slot machines into this state provided the destination of the shipment is an eligible slot machine facility, or the facility of a slot machine manufacturer or slot machine distributor.[97]

Preemption

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.[98] To expressly preempt a subject area, the Legislature must use clear statutory language stating its intention to do so.[99] Implied preemption occurs when the Legislature has demonstrated an intent to preempt an area, though not expressly. Florida courts find implied preemption when "the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the Legislature."[100]

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[87] S. 849.16(3), F.S.
[88] S. 551.101, F.S.
[89] S. 849.15(1)(a), F.S.
[90] Ss. 849.15, F.S. – 849.22, F.S.
[91] S. 849.23, F.S.
[92] A second degree misdemeanor is punishable by up to 60 days in county jail and a $500 fine. Ss. 775.082 or 775.083, F.S.
[93] A first degree misdemeanor is punishable by up to one year in county jail and a $1,000 fine. Ss. 775.082 or 775.083, F.S.
[94] A third degree felony is punishable by up to five years in prison and a $5,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.
[95] S. 849.19, F.S.
[96] S. 849.12, F.S.
[97] S. 849.15(2), F.S.
[98] *See City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011, 1018 (Fla. 2d DCA 2005).
[99] *Mulligan*, 934 So. 2d at 1243.
[100] *Tallahassee Mem. Reg. Med. Ctr., Inc. v. Tallahassee Med. Ctr., Inc.*, 681 So. 2d 826, 831 (Fla. 1st DCA 1996).

Where state preemption applies, a local government may not exercise authority in that area.[101] Whether a local government ordinance or other measure violates preemption is ultimately decided by a court. If a local government improperly enacts an ordinance or other measure on a matter preempted to the state, a person may challenge the ordinance by filing a lawsuit. A court ruling against the local government may declare the preempted ordinance void.[102]

Criminal Punishment Code

The Criminal Punishment Code (Code) applies to all felony offenses, except capital felonies, committed on or after October 1, 1998.[103] Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10), either by being specifically listed in the offense severity ranking chart[104] (OSRC) or by default.[105] Judges must use the Code worksheet to compute a sentence score for each felony offender.[106]

Sentence points are assigned and accrue based on the level ranking assigned to the primary offense, additional offenses, and prior offenses.[107] Sentence points increase as the offense severity level increases from Level 1 (least severe) to Level 10 (most severe). Sentence points may be added for victim injury, and increase based on the type of injury and severity.[108] Sentence points may also be added or multiplied for other factors including possession of a firearm or the commission of certain offenses, such as drug trafficking.[109] If an offense is unlisted on the OSRC, the Code provides a ranking based on felony level.[110] For example, an unranked third degree felony is a level 1 offense.[111]

If total sentence points equal or are less than 44 points, the lowest permissible sentence is any nonstate prison sanction, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.[112] Absent mitigation,[113] the permissible range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.[114]

The OSRC ranks the following third degree felony gaming violations as a Level 1 offense:[115]

- Set up, promote, or conduct any lottery for money or for anything of value;[116]
- Dispose of any money or other property of any kind whatsoever by means of any lottery;[117]
- Conduct any lottery drawing for the distribution of a prize or prizes by lot or chance, or advertise any such lottery scheme or device in any newspaper or by circulars, posters, pamphlets, radio, telegraph, telephone, or otherwise; [118]

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[101] *D'Agastino v. City of Miami*, 220 So. 3d 410 (Fla. 2017); Judge James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).
[102] *See, e.g., Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami,* 812 So. 2d 504 (Fla. 3d DCA 2002).
[103] S. 921.002, F.S.
[104] S. 921.0022, F.S.
[105] S. 921.0023, F.S., addresses ranking unlisted felony offenses. For example, an unlisted felony of the third degree is ranked within offense level 1.
[106] S. 921.0024, F.S.
[107] *Id*.
[108] *Id*.
[109] *Id*.
[110] S. 921.0023, F.S.
[111] *Id*.
[112] S. 921.0022(2), F.S.
[113] The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.
[114] S. 921.0022(2), F.S.
[115] S. 921.022(3)(a), F.S.
[116] S. 849.09(1)(a)-(d), F.S.
[117] *Id*.
[118] *Id*.

- Aid or assist in the setting up, promoting, or conducting of any lottery or lottery drawing, whether by writing, printing, or in any other manner whatsoever, or be interested in or connected in any way with any lottery or lottery drawing; [119] and
- Engaging in bookmaking.[120]

OTHER RESOURCES:

Florida Gaming Control Commission

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Thompson
Budget Committee				
Commerce Committee				

[119] *Id.*
[120] S. 849.25(2), F.S.

A bill to be entitled

An act relating to gambling; amending s. 16.712, F.S.; revising the contents of an annual report by the Florida Gaming Control Commission; amending s. 16.713, F.S.; prohibiting certain employment for a period before or during service with the commission; amending s. 16.715, F.S.; revising standards of conduct for the commission; prohibiting certain post-employment activities for former commissioners and employees for a specified period; amending s. 550.002, F.S.; revising the definition of the term "ultimate equitable owner"; amending s. 550.054, F.S.; revising when commission approval is needed for transfers of stock or other evidence of ownership of certain pari-mutuel permitholders; amending s. 550.09512, F.S.; removing provisions requiring reissuance of escheated harness horse permits; amending s. 550.09515, F.S.; prohibiting reissuance of horse permits to certain permitholders who do not pay tax on handle for live races for a specified period; removing provisions requiring reissuance of escheated horse permits; amending s. 838.12, F.S.; prohibiting betting on athletic contests with knowledge that the results are prearranged or predetermined; providing criminal penalties; amending s. 849.01, F.S.; revising criminal

penalties for offenses involving keeping a gambling house; amending s. 849.02, F.S.; increasing criminal penalties for specified offenses by agents or employees of a keeper of a gambling house; amending s. 849.03, F.S.; revising criminal penalties for offenses involving renting a house for gambling purposes; amending s. 849.086, F.S.; prohibiting specified actions relating to manipulation of card games; providing criminal penalties; creating s. 849.0932, F.S.; defining the term "fantasy sports contest"; requiring such contests to meet specified requirements; providing penalties for violations; authorizing the commission to investigate and refer violations for prosecution; authorizing enforcement actions by the Attorney General and state attorneys; providing criminal penalties for certain violations; amending s. 849.11, F.S.; prohibiting certain offenses related to games of chance; providing criminal penalties; repealing s. 849.142, F.S., relating to exempted activities; amending s. 849.13, F.S.; providing enhanced criminal penalties for second or subsequent violations of certain provisions; amending s. 849.14, F.S.; revising criminal penalties for betting or wagering on certain activities; amending s. 849.15, F.S.; providing definitions; providing

criminal penalties for specified offenses relating to the manufacture, possession, and sale of slot machines or devices; creating s. 849.155, F.S.; prohibiting trafficking in slot machines, devices, or parts thereof; providing criminal penalties; providing for the deposit of fines into a specified trust fund for specified purposes; creating s. 849.157, F.S.; prohibiting the making of a false or misleading statement regarding the legality of slot machines or devices for specified purposes; providing criminal penalties; repealing s. 849.23, F.S., relating to penalties for violations of specified provisions; creating s. 849.47, F.S.; defining the term "illegal gambling"; prohibiting the transportation of specified numbers of persons or persons of certain ages for the purpose of facilitating illegal gambling; providing criminal penalties; creating s. 849.49, F.S.; preempting to the state the regulation of gaming, gambling, lotteries, or specified activities; amending s. 921.0022, F.S.; ranking offenses for purposes of the offense severity ranking chart of the Criminal Punishment Code; amending ss. 772.102 and 895.02, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraph (i) of subsection (3) of section 16.712, Florida Statutes, is redesignated as paragraph (k), paragraph (h) of that subsection is amended, and new paragraphs (i) and (j) are added to that subsection, to read:

16.712 Florida Gaming Control Commission authorizations, duties, and responsibilities.—

(3) By December 1 of each year, the commission shall make an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must, at a minimum, include all of the following:

(h) A summary of actions taken and investigations conducted by the commission, including the number of investigations that led to criminal charges or an information being filed and the resolution of such criminal case.

(i) The number of complaints received by the commission categorized by subject matter or type of complaint and a summary of the action taken on each complaint by the commission.

(j) A list of property seized by the commission during the course of investigations, and the disposition of such property, including a list of forfeiture actions.

Section 2. Paragraphs (a) and (b) of subsection (2) of section 16.713, Florida Statutes, are amended to read:

16.713 Florida Gaming Control Commission; appointment and

employment restrictions.—

(2) PROHIBITIONS FOR EMPLOYEES AND COMMISSIONERS; PERSONS INELIGIBLE FOR APPOINTMENT TO AND EMPLOYMENT WITH THE COMMISSION.—

(a) A person may not, for the 2 years immediately preceding the date of appointment to or employment with the commission and while appointed to or employed with the commission:

1. Hold a permit or license issued under chapter 550 or a license issued under chapter 551 or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

2. Be an officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; be a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or be an ultimate equitable owner, as defined in s. 550.002(37), of such entity;

3. Be a registered lobbyist for the executive or legislative branch, except while a commissioner or employee of the commission when officially representing the commission or unless the person registered as a lobbyist for the executive or legislative branch while employed by a state agency as defined

in s. 110.107 during the normal course of his or her employment with such agency and he or she has not lobbied on behalf of any entity other than a state agency during the 2 years immediately preceding the date of his or her appointment to or employment with the commission; ~~or~~

4. Be a bingo game operator or an employee of a bingo game operator; or

5. Be an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.

(b) A person is ineligible for appointment to or employment with the commission if, within the 2 years immediately preceding such appointment or employment, he or she violated paragraph (a) or solicited or accepted employment with, acquired any direct or indirect interest in, or had any direct or indirect business association, partnership, or financial relationship with, or is a relative of:

1. Any person or entity who is an applicant, licensee, or registrant with the commission; ~~or~~

2. Any officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; any contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or any

ultimate equitable owner, as defined in s. 550.002(37), of such entity; or

3. Any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.

For the purposes of this subsection, the term "relative" means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Section 3. Paragraph (b) of subsection (1) and paragraphs (b) and (c) of subsection (2) of section 16.715, Florida Statutes, are amended to read:

16.715 Florida Gaming Control Commission standards of conduct; ex parte communications.—

(1) STANDARDS OF CONDUCT.—

(b)1. A commissioner or employee of the commission may not accept anything from any business entity that, either directly or indirectly, owns or controls any person regulated by the commission or from any business entity that, either directly or indirectly, is an affiliate or subsidiary of any person regulated by the commission.

2. A commissioner or an employee may attend conferences,

along with associated meals and events that are generally available to all conference participants, without payment of any fees in addition to the conference fee. Additionally, while attending a conference, a commissioner or an employee may attend meetings, meals, or events that are not sponsored, in whole or in part, by any representative of any person regulated by the commission and that are limited to commissioners or employees only, committee members, or speakers if the commissioner or employee is a member of a committee of the association of regulatory agencies which organized the conference or is a speaker at the conference. It is not a violation of this subparagraph for a commissioner or an employee to attend a conference for which conference participants who are employed by a person regulated by the commission have paid a higher conference registration fee than the commissioner or employee, or to attend a meal or event that is generally available to all conference participants without payment of any fees in addition to the conference fee and that is sponsored, in whole or in part, by a person regulated by the commission.

3. While employed, and for 2 years after service as a commissioner or for 2 years after employment with the commission, a commissioner or an employee may not accept any form of employment with or engage in any business activity with any business entity that, either directly or indirectly, owns or controls any person regulated by the commission; any person

regulated by the commission; or any business entity that, either directly or indirectly, is an affiliate or subsidiary of any person regulated by the commission; or be an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.

4. While employed, and for 2 years after service as a commissioner or for 2 years after employment with the commission, a commissioner, an employee, or a relative living in the same household as a commissioner or an employee may not have any financial interest, other than shares in a mutual fund, in any person regulated by the commission; in any business entity that, either directly or indirectly, owns or controls any person regulated by the commission; or in any business entity that, either directly or indirectly, is an affiliate or a subsidiary of any person regulated by the commission; or be an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities. If a commissioner, an employee, or a relative living in the same household as a commissioner or an employee acquires any financial interest prohibited by this subsection during the commissioner's term of office or the employee's employment with the commission as a

result of events or actions beyond the commissioner's, the employee's, or the relative's control, he or she shall immediately sell such financial interest. For the purposes of this subsection, the term "relative" has the same meaning as in s. 16.713(2)(b).

5. A commissioner or an employee may not accept anything from a party in a proceeding currently pending before the commission.

6. A commissioner may not serve as the representative of any political party or on any executive committee or other governing body of a political party; serve as an executive officer or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; engage on behalf of any candidate for public office in the solicitation of votes or other activities on behalf of such candidacy; or become a candidate for election to any public office without first resigning from office.

7. A commissioner, during his or her term of office, may not make any public comment regarding the merits of any proceeding under ss. 120.569 and 120.57 currently pending before the commission.

8. A commissioner or an employee may not act in an unprofessional manner at any time during the performance of official duties.

9. A commissioner or an employee must avoid impropriety in all activities and must act at all times in a manner that promotes public confidence in the integrity and impartiality of the commission.

10. A commissioner or an employee may not directly or indirectly, through staff or other means, solicit anything of value from any person regulated by the commission, or from any business entity that, whether directly or indirectly, is an affiliate or a subsidiary of any person regulated by the commission, or from any party appearing in a proceeding considered by the commission in the last 2 years.

11. A commissioner may not lobby the Governor or any agency of the state, members or employees of the Legislature, or any county or municipal government or governmental agency except to represent the commission in an official capacity.

(2) FORMER COMMISSIONERS AND EMPLOYEES.—

(b) A commissioner, the executive director, and an employee of the commission may not, for the 2 years immediately following the date of resignation or termination from the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 551 or chapter 849; be an officer, official, or employee of such permitholder or licensee; ~~or~~ be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee; or be an employee, associate, owner,

or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities;

2. Accept employment by or compensation from a business entity that, directly or indirectly, owns or controls a person regulated by the commission; from a person regulated by the commission; from a business entity which, directly or indirectly, is an affiliate or subsidiary of a person regulated by the commission; ~~or~~ from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member's resignation or termination of service on the commission; from any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities; or

3. Be a bingo game operator or an employee of a bingo game operator.

(c) A person employed by the commission may not, for the 2 years immediately following the date of termination or resignation from employment with the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 551 or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such

permitholder or licensee; or be an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities; or

2. Be a bingo game operator or an employee of a bingo game operator.

Section 4. Subsection (37) of section 550.002, Florida Statutes, is amended to read:

550.002 Definitions.—As used in this chapter, the term:

(37) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls ~~5 percent or more of~~ an ownership interest in a corporation, foreign corporation, or alien business organization, regardless of whether such person owns or controls such ownership through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

Section 5. Paragraph (b) of subsection (11) and subsection (12) of section 550.054, Florida Statutes, are amended to read:

550.054 Application for permit to conduct pari-mutuel wagering.—

(11)

(b) If a permit to conduct pari-mutuel wagering is held by

a corporation or business entity other than an individual, the transfer of any ~~10 percent or more~~ of the stock or other evidence of ownership or equity in the permitholder may not be made without the prior approval of the transferee by the commission pursuant to s. 550.1815.

(12) Changes in ownership or interest of a pari-mutuel permit of any ~~5 percent or more~~ of the stock or other evidence of ownership or equity in the permitholder shall be approved by the commission before ~~prior to~~ such change~~, unless the owner is an existing owner of that permit who was previously approved by the commission~~. ~~Changes in ownership or interest of a pari-mutuel permit of less than 5 percent shall be reported to the commission within 20 days of the change.~~ The commission may ~~then~~ conduct an investigation related to a request for ~~to ensure that the permit is properly updated to show~~ the change in ownership or interest.

Section 6. Subsection (3) of section 550.09512, Florida Statutes, is amended to read:

550.09512 Harness horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(3)~~(a)~~ The permit of a harness horse permitholder who is conducting live harness horse performances and who does not pay tax on handle for any such performances conducted during any 2 consecutive state fiscal years shall be void and may not be reissued unless such failure to operate and pay tax on handle

was the direct result of fire, strike, war, hurricane, pandemic, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate and pay tax on handle.

~~(b) In order to maximize the tax revenues to the state, the commission shall reissue an escheated harness horse permit to a qualified applicant pursuant to the provisions of this chapter as for the issuance of an initial permit. However, the provisions of this chapter relating to referendum requirements for a pari-mutuel permit shall not apply to the reissuance of an escheated harness horse permit. As specified in the application and upon approval by the commission of an application for the permit, the new permitholder shall be authorized to operate a harness horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2) relating to mileage limitations.~~

Section 7. Subsection (3) of section 550.09515, Florida Statutes, is amended to read:

550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(3)~~(a)~~ The permit of a thoroughbred horse permitholder who does not pay tax on handle for live thoroughbred horse performances for a full schedule of live races during any 2 consecutive state fiscal years shall be void and shall not be

reissued ~~escheat to and become the property of the state~~ unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate and pay tax on handle.

~~(b) In order to maximize the tax revenues to the state, the commission shall reissue an escheated thoroughbred horse permit to a qualified applicant pursuant to the provisions of this chapter as for the issuance of an initial permit. However, the provisions of this chapter relating to referendum requirements for a pari-mutuel permit shall not apply to the reissuance of an escheated thoroughbred horse permit. As specified in the application and upon approval by the commission of an application for the permit, the new permitholder shall be authorized to operate a thoroughbred horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2) relating to mileage limitations.~~

Section 8. Section 838.12, Florida Statutes, is amended to read:

838.12 Bribery in athletic contests.—

(1) A person who ~~Whoever~~ gives, promises, offers or conspires to give, promise or offer, to anyone who participates or expects to participate in any professional or amateur game,

contest, match, race or sport; or to any umpire, referee, judge or other official of such game, contest, match, race or sport; or to any owner, manager, coach or trainer of, or to any relative of, or to any person having any direct, indirect, remote or possible connection with, any team, individual, participant or prospective participant in any such professional or amateur game, contest, match, race or sport, or the officials aforesaid, any bribe, money, goods, present, reward or any valuable thing whatsoever, or any promise, contract or agreement whatsoever, with intent to influence him or her or them to lose or cause to be lost any game, contest, match, race or sport, or to limit his or her or their or any person's or any team's margin of victory in any game, contest, match, race, or sport, or to fix or throw any game, contest, match, race or sport, commits ~~shall be guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any participant or prospective participant in any professional or amateur game, contest, match, race or sport; or any umpire, referee, judge or other official of such game, contest, match, race or sport; or any owner, manager, coach or trainer of, or any relative of, or any person having any direct, indirect, remote or possible connection with, any team, individual, participant or prospective participant in any such professional or amateur game, contest, match, race or sport, or the officials aforesaid; who in any way solicits, receives or

accepts, or agrees to receive or accept, or who conspires to receive or accept, any bribe, money, goods, present, reward or any valuable thing whatsoever, or any promise, contract or agreement whatsoever, with intent to lose or cause to be lost any game, contest, match, race or sport, or to limit his, her, their or any person's or any team's margin of victory in any game, contest, match, race or sport, or to fix or throw any game, contest, match, race or sport, commits ~~shall be guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who stakes, bets, or wagers any money or other thing of value upon the result of any professional or amateur game, contest, match, race, or sport with knowledge that the results of such professional or amateur game, contest, match, race, or sport are prearranged or predetermined as described in subsection (1) or subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 9. Section 849.01, Florida Statutes, is amended to read:

849.01 Keeping gambling houses, etc.—A person who ~~Whoever~~ by herself or himself, her or his servant, clerk or agent, or in any other manner has, keeps, exercises or maintains a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter or other place for the purpose of gaming or

gambling or in any place of which she or he may directly or indirectly have charge, control or management, either exclusively or with others, procures, suffers or permits any person to play for money or other valuable thing at any game whatever, whether heretofore prohibited or not, commits a felony ~~misdemeanor~~ of the third ~~second~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 10. Section 849.02, Florida Statutes, is amended to read:

849.02 Agents or employees of keeper of gambling house.—A person who ~~Whoever~~ acts as servant, clerk, agent, or employee of any person in the violation of s. 849.01 commits:

(1) For a first offense, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) For a second offense, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) For a third or subsequent offense, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 ~~shall be punished in the manner and to the extent therein mentioned~~.

Section 11. Section 849.03, Florida Statutes, is amended to read:

849.03 Renting house for gambling purposes.—A person who ~~Whoever~~, whether as owner or agent, knowingly rents to another a house, room, booth, tent, shelter or place for the purpose of

gaming commits:

(1) For a first offense, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 ~~shall be punished in the manner and to the extent mentioned in s. 849.01~~.

(2) For a second or subsequent offense, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 12. Paragraph (e) is added to subsection (12) of section 849.086, Florida Statutes, to read:

849.086 Cardrooms authorized.—

(12) PROHIBITED ACTIVITIES.—

(e) A person who manipulates or attempts to manipulate the playing cards, outcome, or payoff of a card game in a licensed cardroom by physical tampering or by use of any object, instrument, or device, whether mechanical, electrical, magnetic, or involving other means, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 13. Section 849.0932, Florida Statutes, is created to read:

849.0932 Fantasy sports contests; conditions for conduct.—

(1) As used in this section, the term "fantasy sports contest" means a contest in which a participant pays an entry fee and manages a fantasy or simulation sports team composed of athletes from a professional sports organization with the

opportunity to win a cash prize. The term includes a simulation sports game.

(2) Fantasy sports contests must meet all of the following requirements:

(a) Prizes and awards for the winning participants are established and disclosed to contest participants before entry.

(b) All winning outcomes reflect the relative knowledge and skill of the fantasy sports contest participant.

(c) All winning outcomes are determined predominantly by accumulated statistical results of the performance of more than one individual.

(d) A winning outcome may not be based on:

1. The score, point spread, or performance of a team or combination of teams.

2. The single performance of an individual in a single event or a pari-mutuel event, as the term "pari-mutuel" is defined in s. 550.002 as of January 1, 2025.

3. A game of poker or other card game.

4. The performance of participants in collegiate, high school, or youth sporting events.

(e) Casino graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, dice, craps, roulette, or lotto, are not displayed or depicted.

(3)(a) A violation of this section is punishable by a fine of $1,000 in addition to civil and criminal penalties.

(b) An operator or owner of any website, platform, or application that offers fantasy sports contests in violation of this section is punishable by a fine of up to $100,000 per violation.

(4) The Florida Gaming Control Commission shall investigate and refer violations of this section for prosecution. The Attorney General or state attorney may also institute proceedings to enjoin any person found to be violating this section.

(5)(a) A person who willfully and knowingly violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) An operator or owner of any website, platform, or application that offers fantasy sports contests in violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 14. Section 849.11, Florida Statutes, is amended to read:

849.11 Plays at games of chance by lot.—

(1) A person who ~~Whoever sets up, promotes or~~ plays at any game of chance by lot or with dice, cards, numbers, hazards or any other gambling device whatever for, or for the disposal of money or other thing of value or under the pretext of a sale, gift or delivery thereof, or for any right, share or interest therein, commits ~~shall be guilty of~~ a misdemeanor of the second

degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who:

(a) Sets up, operates, conducts, promotes, or receives in any manner whatsoever any money or other thing of value offered for the purpose of conduct prohibited in subsection (1);

(b) Knowingly becomes the custodian or depositary of any money or other thing of value so offered; or

(c) Aids, assists, abets, or influences in any manner in any of such acts,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 15. Section 849.142, Florida Statutes, is repealed.

Section 16. Section 849.13, Florida Statutes, is amended to read:

849.13 ~~Punishment on~~ Second or subsequent offense ~~conviction~~.—A person who commits a second or subsequent violation of the same ~~Whoever, after being convicted of an~~ offense ~~forbidden by law~~ in connection with lotteries for which there is no penalty specified for a second or subsequent offense shall have the offense reclassified to an offense of the next higher degree~~, commits the like offense, shall be guilty of a misdemeanor of the first degree~~, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084. For purposes of

sentencing under chapter 921, a felony offense that is reclassified under this section is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

Section 17. Section 849.14, Florida Statutes, is amended to read:

849.14 Unlawful to bet on result of trial or contest of skill, etc.—A person who: ~~Whoever~~

(1) Stakes, bets, or wagers any money or other thing of value upon the result of any trial or contest of skill, speed or power or endurance of human or beast;

(2) ~~, or whoever~~ Receives in any manner whatsoever any money or other thing of value staked, bet, or wagered, or offered for the purpose of being staked, bet, or wagered, by or for any other person upon any such result;

(3) ~~, or whoever~~ Knowingly becomes the custodian or depositary of any money or other thing of value so staked, bet, or wagered upon any such result;~~,~~ or

(4) ~~whoever~~ Aids, or assists, or abets, or influences in any manner in any of such acts,

~~all of which are hereby forbidden,~~ commits a felony of the third degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 18. Section 849.15, Florida Statutes, is amended

to read:

849.15 Manufacture, sale, possession, etc., of slot machines or devices prohibited.—

(1) As used in this section, the term:

(a) "Conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

(b) "Ownership interest" means being an officer, director, or managing member of a business, establishment, premises, or other location at which a slot machine or device is offered for play.

(c) "Person of authority" means a person who, at any business, establishment, premises, or other location at which a slot machine or device is offered for play, has:

1. Actual authority to act on behalf of the business, establishment, premises, or other location; or

2. Any ownership interest in the business, establishment, premises, or other location.

(2)~~(1)~~ It is unlawful:

(a) To manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or permit the operation of, or for any person to permit to be placed, maintained, or used or kept

in any room, space, or building owned, leased or occupied by the person or under the person's management or control, any slot machine or device or any part thereof; or

(b) To make or to permit to be made with any person any agreement with reference to any slot machine or device, pursuant to which the user thereof, as a result of any element of chance or other outcome unpredictable to him or her, may become entitled to receive any money, credit, allowance, or thing of value or additional chance or right to use such machine or device, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value.

(3)(a) Except as provided in paragraphs (b) and (c), a person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she violates subsection (2) and:

1. At the time of the violation, the person was a person of authority; or

2. The person has one prior conviction for a violation of subsection (2).

(c) A person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084,

if he or she violates subsection (2) and:

1.a. At the time of the violation, the person was a person of authority; and

b. The violation involves five or more slot machines or devices; or

2. The person has two or more prior convictions for a violation of subsection (2).

(4) ~~(2)~~ Pursuant to section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, the State of Florida, acting by and through the duly elected and qualified members of its Legislature, does hereby in this section, and in accordance with and in compliance with the provisions of section 2 of such chapter of Congress, declare and proclaim that any county of the State of Florida within which slot machine gaming is authorized pursuant to chapter 551 is exempt from the provisions of section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," designated as 15 U.S.C. ss. 1171-1177, approved January 2, 1951. All shipments of gaming devices, including slot machines, into any county of this state within which slot machine gaming is authorized pursuant to chapter 551 and the registering,

recording, and labeling of which have been duly performed by the manufacturer or distributor thereof in accordance with sections 3 and 4 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, shall be deemed legal shipments thereof into this state provided the destination of such shipments is an eligible facility as defined in s. 551.102 or the facility of a slot machine manufacturer or slot machine distributor as provided in s. 551.109(2)(a).

Section 19. Section 849.155, Florida Statutes, is created to read:

849.155 Trafficking in slot machines, devices, or parts.—A person who knowingly sells, purchases, manufactures, transports, delivers, or brings into this state more than 15 slot machines or devices or any parts thereof commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity of slot machines or devices or any parts thereof involved is:

(1) More than 15 slot machines or devices or any parts thereof, but less than 25 slot machines or devices or any parts thereof, such person shall be fined $100,000.

(2) Twenty-five slot machines or devices or any parts thereof or more, but less than 50 slot machines or devices or

any parts thereof, such person shall be fined $250,000.

(3) Fifty slot machines or devices or any parts thereof or more, such person shall be fined $500,000.

(4) Pursuant to section 2 of the chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, the State of Florida, acting by and through the duly elected and qualified members of its Legislature, does hereby in this section, and in accordance with and in compliance with the provisions of section 2 of such chapter of Congress, declare and proclaim that any county of the State of Florida within which slot machine gaming is authorized pursuant to chapter 551 is exempt from the provisions of section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," designated as 15 U.S.C. ss. 1171-1177, approved January 2, 1951. All shipments of gaming devices, including slot machines, into any county of this state within which slot machine gaming is authorized pursuant to chapter 551 and the registering, recording, and labeling of which have been duly performed by the manufacturer or distributor thereof in accordance with sections 3 and 4 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and

foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, shall be deemed legal shipments thereof into this state provided the destination of such shipments is an eligible facility as defined in s. 551.102 or the facility of a slot machine manufacturer or slot machine distributor as provided in s. 551.109(2)(a).

Notwithstanding any other law, all fines imposed and collected pursuant to this section must be deposited into the Pari-mutuel Wagering Trust Fund and may be used for the enforcement of chapters 546, 550, and 551 and this chapter by the Florida Gaming Control Commission.

Section 20. Section 849.157, Florida Statutes, is created to read:

849.157 Making a false or misleading statement regarding the legality of slot machines or devices to facilitate sale.—

(1) Except as provided in subsection (2), a person who knowingly and willfully makes a materially false or misleading statement or who knowingly and willfully disseminates false or misleading information regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who violates subsection (1) when such a violation involves the sale or delivery, or attempted sale or delivery, of five or more slot machines or devices commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 21. Section 849.23, Florida Statutes, is repealed.

Section 22. Section 849.47, Florida Statutes, is created to read:

849.47 Transporting or procuring the transportation of persons to facilitate illegal gambling.—

(1) As used in this section, the term "illegal gambling" means any criminal violation of chapter 546, chapter 550, chapter 551, or this chapter that occurs at any business, establishment, premises, or other location.

(2) Except as provided in subsection (3), a person who knowingly and willfully transports, or procures the transportation of, five or more other persons into or within this state when he or she knows or reasonably should know that such transportation is for the purpose of facilitating illegal gambling commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3)(a) A person who transports, or procures the transportation of, a minor or a person 65 years of age or older in violation of subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s.

775.084.

(b) A person who transports, or procures the transportation of, 12 or more persons in violation of subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person who commits a second or subsequent violation of subsection (2) within a 2-year period commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 23. Section 849.49, Florida Statutes, is created to read:

849.49 Preemption.—A county, municipality, or other political subdivision of the state may not enact or enforce any ordinance or local rule relating to gaming, gambling, lotteries, or any activities described in s. 546.10 or this chapter, except as otherwise expressly provided by the State Constitution, general law, or special law.

Section 24. Paragraphs (a), (c), (e), and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(a) LEVEL 1

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
104.0616(2)	3rd	Unlawfully distributing, ordering, requesting, collecting, delivering, or possessing vote-by-mail ballots.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount $1,000 or more but less than $20,000.
316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30(5)	3rd	Sell, exchange, give away certificate of title or

			identification number plate.
807			
	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
808			
	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
809			
	322.212 (1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.
810			
	322.212(4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
811			
	322.212(5)(a)	3rd	False application for driver license or identification card.
812			
	414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more

			than $200.
813			
	443.071(1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
814			
	509.151(1)	3rd	Defraud an innkeeper, food or lodging value $1,000 or more.
815			
	517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
816			
	713.69	3rd	Tenant removes property upon which lien has accrued, value $1,000 or more.
817			
	812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
818			
	815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).

817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
817.569(2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
826.01	3rd	Bigamy.
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to

		defraud $150 or more.
832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks $150 or more or obtaining property in return for worthless check $150 or more.
838.15(2)	3rd	Commercial bribe receiving.
838.16	3rd	Commercial bribery.
843.18	3rd	Fleeing by boat to elude a law enforcement officer.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
~~849.09(1)(a)-(d)~~	~~3rd~~	~~Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.~~

~~849.23~~	~~3rd~~	~~Gambling-related machines; "common offender" as to property rights.~~
~~849.25(2)~~	~~3rd~~	~~Engaging in bookmaking.~~
860.08	3rd	Interfere with a railroad signal.
860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

(c) LEVEL 3

Florida Statute	Felony Degree	Description

119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.

319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell,

			molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
855			
	379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
856			
	379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
857			
	400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
858			
	400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to

			report information.
859			
	440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
860			
	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
861			
	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
862			
	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
863			
	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
864			
	697.08	3rd	Equity skimming.
865			

790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
794.053	3rd	Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(b)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
810.145(2)(c)	3rd	Digital voyeurism; 19 years of age or older.

812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.
812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
812.081(2)	3rd	Theft of a trade secret.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.

817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods of $1,000 or more as new.
817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument

			with intent to defraud.
831.29		2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
836.13(2)		3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.
838.021(3)(b)		3rd	Threatens unlawful harm to public servant.
838.12(3)		3rd	Betting on predetermined or prearranged professional or amateur game, contest, match, race, or sport.
849.01		3rd	Keeping gambling house.
849.02(2)		3rd	Agents or employees of keeper of gambling house.

849.03(1)	3rd	Renting house for gambling purposes.
849.086(12)(e)	3rd	Tampering with cards or card games.
849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
849.09(1)(e), (f), (g), (i), or (k)	3rd	Conducting unlawful lottery; second or subsequent offense.
849.09(1)(h) or (j)	3rd	Conducting unlawful lottery; second or subsequent offense.
849.11(2)	3rd	Offenses relating to games of chance.

849.14	3rd	Betting on result of trial or contest of skill, etc.
849.15(3)(b)	3rd	Manufacture, sale, or possession of slot machine; by person of authority or with prior conviction.
849.157(1)	3rd	False or misleading statement to facilitate sale of slot machines or devices.
849.25(2)	3rd	Engaging in bookmaking.
849.47(3)(a) & (b)	3rd	Transporting persons to facilitate illegal gambling; minor, person 65 years of age or older, or 12 or more persons.
847.01385	3rd	Harmful communication to a minor.
860.15(3)	3rd	Overcharging for repairs and parts.

870.01(2)	3rd	Riot.
870.01(4)	3rd	Inciting a riot.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs

			within 1,000 feet of public housing facility.
910			
	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
911			
	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
912			
	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
913			
	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
914			
	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
915			

893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.

893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)	3rd	Tampering with or fabricating physical evidence.
944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or

			sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
	379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
	379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.

440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected $20,000 or more but less than $100,000.
626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790.01(3)	3rd	Unlawful carrying of a concealed firearm.
790.162	2nd	Threat to throw or discharge

		destructive device.
790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.

806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
810.145(4)(c)	3rd	Commercial digital voyeurism dissemination.
810.145(7)(a)	2nd	Digital voyeurism; 2nd or subsequent offense.
810.145(8)(a)	2nd	Digital voyeurism; certain minor victims.
812.014(2)(d)3.	2nd	Grand theft, 2nd degree; theft from 20 or more dwellings or their unenclosed curtilage, or any combination.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.
812.015 (8)(a) & (c)-	3rd	Retail theft; property stolen is valued at $750 or more and

(e)		one or more specified acts.
812.015(8)(f)	3rd	Retail theft; multiple thefts within specified period.
812.015(8)(g)	3rd	Retail theft; committed with specified number of other persons.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.081(3)	2nd	Trafficking in trade secrets.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.

817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $5,000 or more or use of personal identification information of 10 or more persons.
817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.

825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
836.14(4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
843.01(1)	3rd	Resist officer with violence to person; resist arrest with violence.

847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
849.02(3)	2nd	Agents or employees of keeper of gambling house, third or subsequent offense.
849.03(2)	2nd	Renting house for gambling purposes; second or subsequent offense.
849.15(3)(c)	2nd	Manufacture, sale, or possession of slot machine; by person of authority of five or more machines or two or more prior convictions.

849.157(2)	2nd	False or misleading statement to facilitate sale of slot machines or devices; five or more machines.
849.25(3)	2nd	Bookmaking; second or subsequent offense.
874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver

			cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
985			
	893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.
986			
	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.,

			(2)(c)10., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.		1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.
893.13(4)(b)		2nd	Use or hire of minor; deliver to minor other controlled substance.
893.1351(1)		3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

(g) LEVEL 7

Florida Statute	Felony Degree	Description

316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920	3rd	Medicaid provider fraud;

(2)(b)1.a.		$10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.

462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.

483.901(7)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments

			exceeding $300 but less than $20,000.
1020			
	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
1021			
	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
1022			
	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
1023			
	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1024			
	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the

			perpetrator of an attempted felony.
1025			
	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1026			
	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1027			
	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
1028			
	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1029			
	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.

784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other

			detainee.
1038			
	784.083(1)	1st	Aggravated battery on code inspector.
1039			
	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
1040			
	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
1041			
	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1042			
	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1043			
	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.

790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger

			than 18 years of age.
1049			
	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
1050			
	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
1051			
	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
1052			
	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
1053			
	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified

			sex offense.
1054			
	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
1055			
	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1056			
	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1057			
	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1058			
	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
1059			
	812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree

			grand theft.
812.014(2)(b)2.		2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.		2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.		2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.014(2)(g)		2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014(2)(c)5.
812.0145(2)(a)		1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)		1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics

			in stolen property.
1066			
	812.131(2)(a)	2nd	Robbery by sudden snatching.
1067			
	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1068			
	817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
1069			
	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1070			
	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
1071			
	817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
1072			
	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency

			of an insuring entity which are a significant cause of the insolvency of that entity.
1073			
	817.418(2)(a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
1074			
	817.504(1)(a)	3rd	Offering or advertising a vaccine with intent to defraud.
1075			
	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
1076			
	817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
1077			
	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1078			
	825.103(3)(b)	2nd	Exploiting an elderly person or

			disabled adult and property is valued at $10,000 or more, but less than $50,000.
827.03(2)(b)		2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)		3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
827.071(2) & (3)		2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
827.071(4)		2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
837.05(2)		3rd	Giving false information about alleged capital felony to a law enforcement officer.

838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
843.0855(2)	3rd	Impersonation of a public officer or employee.
843.0855(3)	3rd	Unlawful simulation of legal process.
843.0855(4)	3rd	Intimidation of a public officer or employee.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.

849.155	1st	Trafficking in slot machines or devices or any parts thereof.
872.06	2nd	Abuse of a dead human body.
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned

			recreational facility or community center.
893.13(1)(e)1.		1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)		1st	Use or hire of minor; deliver to minor other controlled substance.
893.135(1)(a)1.		1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.		1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135		1st	Trafficking in illegal drugs,

(1)(c)1.a.		more than 4 grams, less than 14 grams.
893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200

			grams.
893.135(1)(e)1.		1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
893.135(1)(f)1.		1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
893.135 (1)(g)1.a.		1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.		1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.		1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135 (1)(k)2.a.		1st	Trafficking in Phenethylamines, 10 grams or more, less than 200

		grams.
893.135 (1)(m)2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
893.135 (1)(m)2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
893.135 (1)(n)2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial

			transactions exceeding $300 but less than $20,000.
1121			
	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1122			
	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1123			
	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
1124			
	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1125			
	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address

		verification; providing false registration information.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.

985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

Section 25. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 772.102, Florida Statutes, are amended to read:

772.102 Definitions.—As used in this chapter, the term:

(1) "Criminal activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by indictment or information under the following provisions:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 414.39, relating to public assistance fraud.

3. Section 440.105 or s. 440.106, relating to workers'

compensation.

4. Part IV of chapter 501, relating to telemarketing.

5. Chapter 517, relating to securities transactions.

6. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

7. Chapter 550, relating to jai alai frontons.

8. Chapter 552, relating to the manufacture, distribution, and use of explosives.

9. Chapter 562, relating to beverage law enforcement.

10. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

11. Chapter 687, relating to interest and usurious practices.

12. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

13. Chapter 782, relating to homicide.

14. Chapter 784, relating to assault and battery.

15. Chapter 787, relating to kidnapping or human trafficking.

16. Chapter 790, relating to weapons and firearms.

17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

18. Chapter 806, relating to arson.

19. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.

20. Chapter 812, relating to theft, robbery, and related crimes.

21. Chapter 815, relating to computer-related crimes.

22. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

23. Section 827.071, relating to commercial sexual exploitation of children.

24. Chapter 831, relating to forgery and counterfeiting.

25. Chapter 832, relating to issuance of worthless checks and drafts.

26. Section 836.05, relating to extortion.

27. Chapter 837, relating to perjury.

28. Chapter 838, relating to bribery and misuse of public office.

29. Chapter 843, relating to obstruction of justice.

30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

31. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

32. Chapter 893, relating to drug abuse prevention and control.

33. Section 914.22 or s. 914.23, relating to witnesses,

victims, or informants.

34. Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.

(2) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

2. Chapter 550, relating to jai alai frontons.

3. Section 687.071, relating to criminal usury and loan sharking.

4. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

Section 26. Paragraph (a) of subsection (12) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(12) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of

law:

1. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

2. Chapter 550, relating to jai alai frontons.

3. Section 551.109, relating to slot machine gaming.

4. Chapter 687, relating to interest and usury.

5. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

Section 27. This act shall take effect October 1, 2025.

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 4039	**COMPANION BILL:** None
TITLE: Broward County	**LINKED BILLS:** None
SPONSOR(S): LaMarca	**RELATED BILLS:** None

Committee References

Intergovernmental Affairs	➤	Industries & Professional Activities	➤	State Affairs
11 Y, 4 N				

SUMMARY

Effect of the Bill:

The bill provides an exception to the Tied House Evil provisions of the Beverage Law for any alcohol beverage license issued to any civic center or sports arena located within the Western Sunrise Entertainment District of City of Sunrise, Holiday Park in City of Fort Lauderdale, or within the City of Coral Springs and provides a corresponding exception for alcoholic beverage manufacturers, importers, distributors, and vendors for their activities in relation to those licensees.

Fiscal or Economic Impact:

The Economic Impact Statement for the bill states the county is projected to see an increase in revenues of $180,000 and $195,000 in the first and second fiscal years after the effective date of the bill.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill provides an exception to the Tied House Evil provisions of the Beverage Law for any alcohol beverage license issued to any civic center or sports arena located within the Western Sunrise Entertainment District of City of Sunrise, Holiday Park in City of Fort Lauderdale, or within the City of Coral Springs. The bill also provides that Tied House Evil provisions do not apply to any alcoholic beverage manufacturer, importer, distributor, primary American source of supply, brand owner or registrant, or vendor in relation to those licenses or the premises on which those licensees operate. (Sections 1 and 2)

The bill provides a boundary description of the Western Sunrise Entertainment District and Holiday Park. (Sections 3 and 4)

The bill provides an effective date of upon becoming a law. (Section 5)

FISCAL OR ECONOMIC IMPACT:

LOCAL GOVERNMENT:

The Economic Impact Statement for the bill states the county is projected to see an increase in revenues of $180,000 and $195,000 in the first and second fiscal years after the effective date of the bill.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Beverage Law

In Florida, the Beverage Law[1] regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.[2] The Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.[3]

Special Licenses

Under the Beverage Law, there is not a limit on the number of licenses DBPR may issue to businesses selling malt beverages or wine. However, the law limits the number of licenses for selling distilled spirits to one license per 7,500 residents within the county with a minimum of three licenses per county for counties that have approved the sale of intoxicating liquors.[4] These licenses are known as quota licenses and are the only alcoholic beverage license type that is limited in number.

There are several exceptions to the quota license limitation.[5] DBPR may issue a special license to businesses that meet the requirements set out in one of the exceptions. The special license allows businesses to serve any alcoholic beverages regardless of alcohol content. One exception authorizes the Division to issue a special license for on-premises consumption to any civic center authority or sports arena authority created by state law or local ordinance or to any civic center or sports arena that is owned by a political subdivision of the state.[6] A license issued under this exception may be transferred to a qualified applicant who provides food services for the facility pursuant to a contract with the governmental entity that owns the facility.[7] The license is the exclusive property of the governmental entity and reverts to the government entity by operation of law in the event the contract between the governmental entity and the qualified applicant is terminated.[8]

Three-Tier System and Tied House Evil

Since the repeal of Prohibition, regulation of alcohol in the United States has traditionally been based upon what is termed the "three-tier system." The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages, and the distributor obtains the beverages from the manufacturer to deliver to the vendor. The vendor makes the ultimate sale to the consumer.[9] Generally, only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.[10] A manufacturer, distributor, or exporter may not be licensed as a vendor to sell directly to consumers.[11] Manufacturers are also generally prohibited from having an interest in a vendor and from distributing directly to a vendor.[12]

The three-tier system is deeply rooted in the perceived evils of the "tied house" in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.[13]

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[1] Section 561.01(6), F.S., provides that the "The Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.
[2] *See* s. 561.14, F.S.
[3] S. 561.02, F.S.
[4] S. 561.20(1), F.S.
[5] S. 561.20(2), F.S.
[6] S. 561.20(2)(h), F.S.
[7] *Id.*
[8] *Id.*
[9] S. 561.14, F.S.
[10] S. 561.14(3), F.S., *but see* ss. 561.221 (exception for manufacturers of wine to sell to consumers at licensed premise on property contiguous to the manufacturing premises) and 565.03, F.S.
[11] S. 561.22(1), F.S.
[12] Ss. 563.022(14) and 561.14(1), F.S.
[13] See Andrew Tamayo, *What's Brewing in the Old North State: An Analysis of the Beer Distribution Laws Regulating North Carolina's Craft Breweries*, 88 N.C. L. Rev. 2198 (2010).

Florida's Tied House Evil Law[14] prohibits a licensed manufacturer or distributor from having any direct or indirect financial interest in any vendor, from assisting any vendor through gifts, loans, money or property of any description, and from giving any rebates of any kind whatsoever.

A manufacturer or distributor is also prohibited from:

- Engaging in cooperative advertising with a vendor;
- Naming a vendor in any advertisement for a malt beverage tasting; or
- Paying for particular placement, signage, or other brand promotion within a vendor premises for malt beverages produced by the manufacturer.[15]

However, the Tied House Evil Law authorizes a manufacturer, distributor, importer or registrant of malt beverage to sell expendable retailer advertising specialties (such as trays, coasters, mats, menu cards, napkins, cups, glasses, thermometers, and the like), to a vendor at a price not less than the actual cost to the industry member who initially purchased them.[16] Vendors may accept glassware from a distributor at no charge, subject to certain limitations and conditions.[17]

Penalties

A false entry of any record required under the Beverage Law or a violation of the excise tax provisions, when done intentionally, is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S..[18] For violations of the Beverage Law where no penalty is provided, first-time offenders are guilty of a misdemeanor of the second degree and a felony of the third degree for any subsequent offenses thereafter. The Division may issue civil penalties for violations of the Beverage Law and related rules;[19] Such penalties may not exceed $1,000 per transaction. The Division may also suspend the license of a licensee that fails to pay a civil penalty.

Local Bill Forms

The Florida Constitution prohibits the passage of any special act unless a notice of intention to seek enactment of the bill has been published as provided by general law or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.[20] A legal advertisement of the proposed bill must be placed in a newspaper of general circulation or published on a publicly accessible website[21] at least 30 days prior to the introduction of the local bill in the House or Senate.[22] The bill was noticed in the Sun-Sentinel on January 19, 2025.

The House local bill policy requires a completed and signed Local Bill Certification Form and Economic Impact Statement Form be filed with the Clerk of the House at the time the local bill is filed or as soon thereafter as possible.[23] Under the policy, a committee or subcommittee may not consider a local bill unless these forms have been filed. The following forms have been submitted for the bill:

- Local Bill Certification Form
- Economic Impact Statement Form

[14] S. 561.42(1), F.S.
[15] S. 561.42, F.S.
[16] S. 561.42(14), F.S.
[17] *Id*.
[18] S. 562.45(1), F.S.
[19] S. 561.29, F.S.
[20] Art. III, s. 10, Fla. Const.
[21] S. 50.0311(2), F.S.
[22] S. 11.02, F.S. If there is no newspaper circulated throughout or published in the county and no publicly accessible website has been designated, notice must be posted for at least 30 days in at least three public places in the county, one of which must be at the courthouse.
[23] Intergovernmental Affairs Subcommittee, *Local Bill Policies and Procedures Manual*, p. 11 (last visited Mar. 15, 2025).

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Intergovernmental Affairs Subcommittee	11 Y, 4 N	3/26/2025	Darden	Darden
Industries & Professional Activities Subcommittee			Anstead	Brackett
State Affairs Committee				

A bill to be entitled

An act relating to Broward County; providing nonapplicability of provisions on alcoholic beverage-related actions and activities to special alcoholic beverage licenses issued for premises located within identified areas of Broward County; providing nonapplicability of such provisions to actions and activities of alcoholic entities in relation to special alcoholic beverage licenses and premises; defining specified areas of the county to which such provisions do not apply; providing an effective date.

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

Section 1. Section 561.42, Florida Statutes, does not apply to any special alcoholic beverage license issued pursuant to s. 561.20(2)(h), Florida Statutes, for which the premises of such license are located on any property within the Western Sunrise Entertainment District of the City of Sunrise, within Holiday Park in the City of Fort Lauderdale, or within the City of Coral Springs.

Section 2. Section 561.42, Florida Statutes, does not apply to the actions or activities of any alcoholic beverage manufacturer, importer, distributor, primary American source of supply, brand owner or registrant, or vendor in relation to any

special alcoholic beverage license issued pursuant to s. 561.20(2)(h), Florida Statutes, or the premises on which such special license is operated within the areas identified in section 1 of this act.

Section 3. For the purposes of this act, the "Western Sunrise Entertainment District of the City of Sunrise" means the area defined by Section 16-82(b) of the City of Sunrise Land Development Code and more particularly described as follows:

That portion of the Western Sunrise Area bounded by the Sawgrass Expressway on the west; Oakland Park Boulevard on the north; Flamingo Road on the east; and, a southern boundary consisting of Sunrise Boulevard east of N.W. 136 Ave, and one thousand four hundred (1,400) feet south of southern edge of the right-of-way of Sunrise Boulevard west of N.W. 136 Avenue.

Section 4. For the purposes of this act, "Holiday Park in the City of Fort Lauderdale" means the area of land designated as "Holiday Park" by the City of Fort Lauderdale pursuant to the dedication recorded in Plat Book 24, page 14, of the Broward County Official Records, and more particularly described as follows:

All of Blocks 222, 223, 224, 225, 244, 245, 246, 247, 248, 249, 296, 297, 298, 299, 300, 301, and lots 21-24 incl., block 219, lots 21-28 incl., block 220, lots 21-28 incl., block 221; lots

1-27, incl., block 250; 22-27, incl., block 251; lots 22-24, incl., block 252; lots 1-3 incl., block 293; lots 1-3 incl., and lots 46-48 incl., block 294; lots 1-24 incl., and lots 46-48 incl., block 295; lots 1-10 incl. and lots 39-48 incl., block 305; lots 1-10 incl. and lots 39-48 incl., block 306; lots 1-10 incl., and lots 39-48 incl., block 307; lots 1-10 incl. and lots 39-48 incl., block 308; all in Progresso, according to the plat thereof recorded in Plat Book 2, page 18, of the Public Records of Dade County, Florida.

Section 5. This act shall take effect upon becoming a law.

PCS for HB 577

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: PCS for CS/HB 577 **TITLE:** Removal, Storage, and Cleanup of Electric Vehicles **SPONSOR(S):** Industries & Professional Activities Subcommittee	**COMPANION BILL:** CS/CS/SB 872 (Ingoglia) **LINKED BILLS:** None **RELATED BILLS:** None

Committee References

Orig. Comm.: Industries & Professional Activities

SUMMARY

Effect of the Bill:

The bill allows a wrecker service or towing-storage or wrecker operator to charge a reasonable administrative fee, not to exceed $150, for the storage of electric vehicles that have been involved in an accident, in addition to fees specifically authorized in statute. The bill clarifies that the provisions relating to the storage of electric vehicles do not require a motor vehicle insurer to pay any costs beyond what is covered pursuant to a contract with their insured.

Fiscal or Economic Impact:

Indeterminate. The bill may increase revenues for towing-storage or wrecker operators.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill prohibits counties and municipalities from prohibiting a wrecker service or towing-storage or wrecker operator from charging a reasonable administrative fee, not to exceed $150, for the storage of electric vehicles that have been involved in an accident, in addition to fees specifically authorized in statute. (Sections 1 and 2)

The bill authorizes a wrecker service or towing-storage or wrecker operator to charge a reasonable administrative fee, not to exceed $150, for the storage of electric vehicles that have been involved in an accident, in addition to fees specifically authorized in statute. (Section 4)

The bill clarifies that certain provisions, relating to the storage of electric vehicles, do not require a motor vehicle insurer to pay any costs beyond what is covered pursuant to a contract with their insured. (Section 3)

The bill defines "administrative fee" as any fee imposed by a wrecker service or towing-storage or wrecker operator for administrative costs added to the amount due for towing and storing the electric vehicle that are associated with and unique to the clean-up of the accident scene, debris removal, and additional costs related to storing that are specific to an electric vehicle that has been in an accident. (Sections 1, 2, and 4)

The effective date of the bill is July 1, 2025. (Section 5)

FISCAL OR ECONOMIC IMPACT:

LOCAL GOVERNMENT:

An agency analysis of HB 577 was requested from Department of Highway Safety and Motor Vehicles on February 18, 2025, and as of the date of publication has not been received.

PRIVATE SECTOR:

The bill may increase costs to owners of electric vehicles to the extent those vehicles are subject to an involuntary tow.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Wrecker Operators

A wrecker operator is any person or firm regularly engaged for hire in the business of towing or removing vehicles,[1] while a towing-storage operator refers to a person who engages in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier or who engages in storing towed vehicles or vessels.[2]

Current law allows counties and municipalities to establish wrecker operator systems similar to that of the Florida Highway Patrol as authorized in s. 321.051(2), F.S.[3] Under this system, a county or municipality may contract with one or more wrecker operators (authorized wrecker operators)[4] for towing or removal of wrecked, disabled, or abandoned vehicles from accident scenes, streets, or highways. The wrecker operator system must also include a method for distributing towing assignments among the authorized wrecker operators.[5]

In counties and municipalities with established wrecker operator systems, it is unlawful for an unauthorized wrecker operator to monitor police radio communications to determine the location of wrecked or disabled vehicles, drive by the scene of wrecked or disabled vehicles before an authorized wrecker operator arrives, or to initiate contact with the owner or operator of a wrecked or disabled vehicle.[6] If an owner or operator of a wrecked or disabled vehicle initiates contact with an unauthorized wrecker operator, the unauthorized wrecker operator must disclose in writing:

- His or her full name and driver license number;
- That he or she is not the authorized wrecker operator who has been designated as part of the wrecker operator system;
- The vehicle is not being towed for the owner's or operator's insurance company or lienholder;
- Whether he or she has an insurance policy providing $300,000 in liability coverage and $50,000 in on-hook cargo coverage; and
- The maximum charges for towing and storage.[7]

County and Municipal Wrecker Operator Fees

Counties are required to establish maximum rates charged for towing and storage of vehicles or vessels when the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker services to law enforcement, or otherwise does not consent to removal of the vehicle or vessel.[8] Municipalities may choose to establish maximum rates for vehicle or vessel towing. In municipalities with ordinances establishing maximum rates for towing, the maximum towing rates established by the county do not apply.[9]

Towing-Storage Operator Fees

Once a vehicle or vessel is towed or stored, the towing-storage operator has a lien on the vehicle or vessel for fees related to recovery, removal or storage.[10] These fees may include any reasonable towing fees, administrative fees,

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[1] S. 1.01(15), F.S.
[2] S. 713.78(1)(f), F.S.
[3] S. 323.002(1)(c), F.S.
[4] S. 323.002(1)(a), F.S., defines an authorized wrecker operator as any wrecker operator designated as part of the local government's wrecker operator system. Section 323.002(1)(b), F.S., defines an unauthorized wrecker operator as any wrecker operator that is not part of the local government's wrecker operator system.
[5] *Id.* at 2
[6] S. 323.002(2), F.S.
[7] S. 323.002(2)(c), F.S.
[8] Ss. 125.0103(1)(c) and 166.043(1)(c), F.S.
[9] *Id.*
[10] S. 713.78(2)(b), F.S.

or storage fees.[11] However, a storage fee may not be charged if the vehicle or vessel is stored for less than six hours.[12] In addition to the amount due for the towing and storage of the vehicle, a towing company may charge an administrative fee of up to $250 for releasing the claim of lien.[13]

Handling Damaged Electric Vehicles

The National Highway Traffic Safety Administration (NHTSA) issued guidance in 2012 for the handling of electric and hybrid-electric vehicles equipped with high-voltage batteries in certain situations.[14] The guidance provides that in the event of damage, fire, or flooding involving an electric vehicle or hybrid-electric vehicle one should always assume the high-voltage (HV) battery and associated components are energized and fully charged. Individuals should also be aware that:

- Exposed electrical components, wires, and HV batteries present potential HV shock hazards;
- Venting and off-gassing HV battery vapors are potentially toxic and flammable; and
- Physical damage to the vehicle or high-voltage battery may result in immediate or delayed release of toxic and/or flammable gases and fire.

In a post incident situation, the NHTSA guidance recommends to not store a severely damaged vehicle with a lithium-ion battery inside a structure or within 50 feet of any structure, vehicle, or combustible, and to ensure that the vehicle compartments remain well ventilated.[15]

A 2020 NHSTA safety report on safety risks to emergency responders from lithium-ion battery fires in electric vehicles included findings and recommendations related to the handling of damaged electric vehicles.[16] Key findings that may impact vehicle towing and storage included:

- Thermal runaway and multiple battery reignitions after initial fire suppression are safety risks in HV lithium-ion battery fires.
- The energy remaining in a damaged HV lithium-ion battery, known as stranded energy, poses a risk of electric shock and creates the potential for thermal runaway that can result in battery reignition and fire.
- HV lithium-ion batteries in electric vehicles, when damaged by crash forces or internal battery failure, present special challenges to first and second responders because of insufficient information from manufacturers on procedures for mitigating the risks of stranded energy.
- Storing an electric vehicle with a damaged HV lithium-ion battery inside the recommended 50-foot-radius clear area may be infeasible at tow or storage yards.[17]

The report recommended that certain associations representing emergency responders (including the Towing and Recovery Association of America) inform their members about the circumstances of the fire risks described in the report and the guidance available to emergency personnel who respond to high-voltage lithium-ion battery fires in electric vehicles.[18]

Motor Vehicle Insurance

Chapter 324, F.S., sets forth the financial responsibility laws for owners or operators of motor vehicles in Florida, whether they be used for personal or commercial purposes. Generally, a motor vehicle owner or operator is required to insure against losses from liability for bodily injury, death, and property damage by either:

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[11] S. 713.78(2), F.S.
[12] *Id.* at 12
[13] S. 713.78(15)(a), F.S.
[14] U.S. Dept. of Transportation, National Highway Traffic Safety Administration, *Interim Guidance for Electric and Hybrid-Electric Vehicles*, p. 2 (last visited Mar. 22, 2025).
[15] U.S. Dept, of Transportation, National Highway Traffic Safety Administration, *Interim Guidance for Electric and Hybrid-Electric Vehicles*, p. 3 (last visited Mar. 22, 2025).
[16] National Transportation Safety Board, *Safety Risks to Emergency Responders from Lithium-Ion Battery Fires in Electric Vehicles* (last visited Mar. 22, 2025).
[17] National Transportation Safety Board, *Safety Risks to Emergency Responders from Lithium-Ion Battery Fires in Electric Vehicles*, p. 63 (last visited Mar. 22, 2025).
[18] National Transportation Safety Board, *Safety Risks to Emergency Responders from Lithium-Ion Battery Fires in Electric Vehicles*, p. 64 (last visited Mar. 22, 2025).

- Purchasing auto insurance from an insurance carrier authorized by the Office of Insurance Regulation (OIR) to do business in Florida;[19] or
- Obtaining a certificate of self-insurance from the Department of Highway Safety and Motor Vehicles (DHSMV) after demonstrating the ability to cover potential losses arising out of the ownership, maintenance, or use of a motor vehicle.[20]

OIR licenses insurance carriers and reviews policy contracts and premium rates of its licensees.[21] An insurance carrier may not issue an auto insurance policy in Florida unless the policy includes coverages for both personal injury and property damage.[22]

DHSMV administers the Financial Responsibility Law by requiring all licensed insurance companies to provide electronic notification of all policies that are issued or cancelled.[23] Vehicle owners must show proof of personal injury protection and property damage liability coverage to register a vehicle,[24] and must provide proof of bodily injury liability coverage if they are involved in an accident and charged with a moving violation.[25] A vehicle owner who fails to maintain continuous coverage may have his or her driver's license and registration suspended.[26]

Required coverages vary based on the use of a motor vehicle, as follows:
- **Individual motorists**: the law requires $10,000 in personal injury protection and $10,000 for property damage.[27] If a driver has been convicted of driving under the influence of alcohol, the motorist must maintain liability coverage of $100,000 for bodily injury to, or death of, one person in any one crash and in the amount of $300,000 due to bodily injury to, or death of, two or more persons in any one crash and in the amount of $50,000 because of property damage in any one crash per accident, for three years after the license is reinstated.[28]
- **Leased motor vehicles**: the lessor is not liable for the actions of a lessee so long as the lease requires $100,000/$300,000 bodily injury liability and $50,000 property damage liability or not less than $500,000 combined property damage and bodily injury liability.[29] For-hire passenger vehicles like taxicabs and limousines must have bodily injury liability coverage of $125,000 per person and $250,000 per occurrence, and $50,000 property damage coverage.[30]
- **Commercial motor vehicles**: are subject to state and federal regulations related to size and weight limits, safety standards, and registration requirements. Commercial vehicles that weigh 10,001 pounds or more, and engage in interstate commerce or haul hazardous materials, are subject to federal law, where required coverages range from $750,000 to $5 million.[31] Commercial vehicles that weigh 26,001 pounds or more, operate only within Florida, and do not transport hazardous materials are subject to Florida law, where required coverages range from $50,000 to $300,000.[32]

When the owner or operator of a motor vehicle purchases liability insurance to satisfy the financial responsibility law, the policy must be issued by an insurance company authorized to do business in Florida.[33] When an owner or

[19] S. 324.021(8), F.S.
[20] Ss. 324.161 and 324.171, F.S. *Also see* Florida Department of Highway Safety and Motor Vehicles, Self-Insurance, https://www.flhsmv.gov/insurance/self-insurance/firm/ (last visited March 22, 2023).
[21] Ss. 624.404, 627.062, 627.410, and 627.4102, F.S.
[22] S. 627.7275, F.S.
[23] Ss. 324.0221, 324.252, F.S., and Rules 15A-3.007 and 15A-3.012, F.A.C.
[24] Ss. 324.022, 324.023, F.S., and Rule 15A-3.006, F.A.C.
[25] S. 324.021, F.S. *Also see*, Florida Highway Safety and Motor Vehicles, *Florida Insurance Requirements*, https://www.flhsmv.gov/insurance/ (last visited March 22, 2023).
[26] S. 324.0221, F.S.
[27] S. 324.021(7), 324.022, and 627.736, F.S.
[28] S. 324.023, F.S.
[29] S. 324.021(9), F.S.
[30] S. 324.032, F.S.
[31] 49 CFR § 387.9.
[32] Ss. 207.002(1), 320.01(25), and 627.7415, F.S.
[33] S. 324.021(8), F.S.

operator self-insures a vehicle or fleet of vehicles, the owner or operator must obtain a certificate of self-insurance from the DHSMV.[34]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Orig. Comm.: Industries & Professional Activities Subcommittee			Anstead	Thompson

[34] S. 324.171, F.S.

A bill to be entitled

An act relating to the removal, storage, and cleanup of electric vehicles; amending ss. 125.0103 and 166.043, F.S.; prohibiting counties or municipalities from prohibiting a wrecker service or towing-storage or wrecker operator from charging a reasonable administrative fee for the storage of electric vehicles that have been involved in an accident; providing a maximum amount for such fees; providing a definition; creating s. 324.0222, F.S.; providing that motor vehicle insurers are not required to pay certain costs; amending s. 713.78, F.S.; authorizing a towing-storage or wrecker operator to charge a reasonable administrative fee for the storage of electric vehicles that have been involved in an accident; providing a maximum amount for such fees; providing a definition; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 125.0103, Florida Statutes, is amended to read:

125.0103 Ordinances and rules imposing price controls.—

(1)

(c) Counties must establish maximum rates which may be

charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property or which may be charged for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance does not apply within such municipality.

(d) No county or municipality may prohibit a wrecker service or towing-storage or wrecker operator from charging a reasonable administrative fee for the storage of electric vehicles that have been involved in an accident in addition to fees specifically authorized in paragraph (c). Such administrative fee may not exceed $150. For purposes of this paragraph, the term "administrative fee" means any fee imposed by a wrecker service or towing-storage or wrecker operator for administrative costs added to the amount due for towing and storing the electric vehicle that are associated with and unique to the cleanup of the accident scene, debris removal, and additional costs related to storing that are specific to an

electric vehicle that has been in an accident.

Section 2. Paragraph (c) of subsection (1) of section 166.043, Florida Statutes, is amended to read:

166.043 Ordinances and rules imposing price controls.—

(1)

(c) Counties must establish maximum rates which may be charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property or which may be charged for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance established under s. 125.0103 does not apply within such municipality.

(d) No county or municipality may prohibit a wrecker service or towing-storage or wrecker operator from charging a reasonable administrative fee for the storage of electric vehicles that have been involved in an accident in addition to fees specifically authorized in paragraph (c). Such administrative fee may not exceed $150. For purposes of this

paragraph, the term "administrative fee" means any fee imposed by a wrecker service or towing-storage or wrecker operator for administrative costs added to the amount due for towing and storing the electric vehicle that are associated with and unique to the cleanup of the accident scene, debris removal, and additional costs related to storing that are specific to an electric vehicle that has been in an accident.

Section 3. Section 324.0222, Florida Statutes, is created to read:

324.0222 Storage of electric vehicles; coverage.—

Nothing in ss. 125.0103, or 166.043, relating to the storage of electric vehicles, requires a motor vehicle insurer to pay any costs beyond what is covered pursuant to a contract with their insured.

Section 4. Section 713.78, Florida Statutes, is amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(2)(a) A towing-storage operator may charge the owner or operator of a vehicle or vessel only the following fees for, or incidental to, the recovery, removal, or storage of the vehicle or vessel:

1. Any reasonable fee for service specifically authorized under s. 125.0103 or s. 166.043 by ordinance, resolution, regulation, or rule of the county or municipality in which the

service is performed.

2. Any reasonable fee for service specifically authorized by the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles under s. 321.051(2).

3. Any reasonable fee for service as agreed upon in writing between a towing-storage operator and the owner of a vehicle or vessel.

4. Any lien release administrative fee as set forth in paragraph (15)(a).

5. Any reasonable administrative fee or charge imposed by a county or municipality pursuant to s. 125.01047, s. 166.04465, or s. 323.002 upon the registered owner or other legally authorized person in control of a vehicle or vessel.

6. Any reasonable administrative fee for the storage of electric vehicles that have been involved in an accident, which may be charged in addition to fees specifically authorized under s.125.0103 or s. 166.043. Such administrative fee may not exceed $150. For purposes of this paragraph, the term "administrative fee" means any fee imposed by a towing-storage or wrecker operator for administrative costs added to the amount due for towing and storing the electric vehicle that are associated with and unique to the cleanup of the accident scene, debris removal, and additional costs related to storing that are specific to an electric vehicle that has been in an accident.

Section 5. This act shall take effect July 1, 2025.

INDUSTRIES & PROFESSIONAL ACTIVITIES SUBCOMMITTEE

PCS for CS/HB 577 by Rep. Nix
Removal, Storage, and Cleanup of Electric Vehicles

AMENDMENT SUMMARY
April 1, 2025

Amendment 1 by Rep. Nix (strike):

- Authorizes wrecker operators to charge a daily administrative fee for the storage of electric vehicles that have been in an accident.
- Specifies that the fee may not exceed three times the maximum rate for storage authorized in current law.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: Industries & Professional Activities Subcommittee

Representative Nix offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (1) of section 125.0103, Florida Statutes, is amended to read:

125.0103 Ordinances and rules imposing price controls.—

(1)

(c) Counties must establish maximum rates which may be charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property or which may be charged for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles or vessels, in the event the

owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance does not apply within such municipality.

(d) No county or municipality may prohibit a wrecker service or towing-storage or wrecker operator from charging a reasonable daily administrative fee for the storage of electric vehicles that have been involved in an accident in addition to fees specifically authorized in paragraph (c). Such daily administrative fee may not exceed three times the daily rate for storage authorized in paragraph (c). For purposes of this paragraph, the term "daily administrative fee" means any fee imposed by a wrecker service or towing-storage or wrecker operator for administrative costs added to the amount due for towing and storing the electric vehicle that are associated with and unique to the cleanup of the accident scene, debris removal, and additional costs related to storing that are specific to an electric vehicle that has been in an accident.

Section 2. Paragraph (c) of subsection (1) of section 166.043, Florida Statutes, is amended to read:

166.043 Ordinances and rules imposing price controls.—

(1)

(c) Counties must establish maximum rates which may be charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property or which may be charged for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance established under s. 125.0103 does not apply within such municipality.

(d) No county or municipality may prohibit a wrecker service or towing-storage or wrecker operator from charging a reasonable daily administrative fee for the storage of electric vehicles that have been involved in an accident in addition to fees specifically authorized in paragraph (c). Such daily administrative fee may not exceed three times the daily rate for storage authorized in paragraph (c). For purposes of this paragraph, the term "daily administrative fee" means any fee imposed by a wrecker service or towing-storage or wrecker operator for administrative costs added to the amount due for

towing and storing the electric vehicle that are associated with and unique to the cleanup of the accident scene, debris removal, and additional costs related to storing that are specific to an electric vehicle that has been in an accident.

Section 3. Section 324.0222, Florida Statutes, is created to read:

324.0222 Storage of electric vehicles; coverage.—

Nothing in ss. 125.0103, or 166.043, relating to the storage of electric vehicles, requires a motor vehicle insurer to pay any costs beyond what is covered pursuant to a contract with their insured.

Section 4. Section 713.78, Florida Statutes, is amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(2)(a) A towing-storage operator may charge the owner or operator of a vehicle or vessel only the following fees for, or incidental to, the recovery, removal, or storage of the vehicle or vessel:

1. Any reasonable fee for service specifically authorized under s. 125.0103 or s. 166.043 by ordinance, resolution, regulation, or rule of the county or municipality in which the service is performed.

2. Any reasonable fee for service specifically authorized by the Division of Florida Highway Patrol of the Department of

Highway Safety and Motor Vehicles under s. 321.051(2).

3. Any reasonable fee for service as agreed upon in writing between a towing-storage operator and the owner of a vehicle or vessel.

4. Any lien release administrative fee as set forth in paragraph (15)(a).

5. Any reasonable administrative fee or charge imposed by a county or municipality pursuant to s. 125.01047, s. 166.04465, or s. 323.002 upon the registered owner or other legally authorized person in control of a vehicle or vessel.

6. Any reasonable daily administrative fee for the storage of electric vehicles that have been involved in an accident, which may be charged in addition to fees specifically authorized under s.125.0103 or s. 166.043. Such daily administrative fee may not exceed three times the daily rate for storage authorized under s.125.0103 or s. 166.043.. For purposes of this paragraph, the term "daily administrative fee" means any fee imposed by a towing-storage or wrecker operator for administrative costs added to the amount due for towing and storing the electric vehicle that are associated with and unique to the cleanup of the accident scene, debris removal, and additional costs related to storing that are specific to an electric vehicle that has been in an accident.

Section 5. This act shall take effect July 1, 2025.

T I T L E A M E N D M E N T

Remove line 7 and insert:
daily administrative fee for the storage of electric

PCS for HB 1489

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: PCS for HB 1489	**COMPANION BILL:** CS/SB 1734 (Collins)
TITLE: Kratom Products	**LINKED BILLS:** None
SPONSOR(S): Industries & Professional Activities Subcommittee	**RELATED BILLS:** None

Committee References

Orig. Comm.: Industries & Professional Activities

SUMMARY

Effect of the Bill:

The bill revises the Florida Kratom Consumer Protection Act to provide requirements for the distribution and sale of kratom products. The bill restricts the types of businesses and locations where kratom products may be sold, and creates requirements for remote sales. The bill provides penalties for violations, procedures for the seizure, confiscation, and destruction of such products, and authorizes the Department of Agriculture and Consumer Services to administer and enforce these provisions. The bill prohibits using kratom products near certain schools. The bill authorizes certain alcoholic beverage licensees to sell such products and authorizes the Department of Business and Professional Regulation Division of Alcoholic Beverages and Tobacco to discipline tobacco products dealers and nicotine products dealers for certain violations.

Fiscal or Economic Impact:

Indeterminate. The bill may have an indeterminate fiscal impact on state government and the private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill revises the Florida Kratom Consumer Protection Act to provide requirements for the testing, certification, distribution, and sale of kratom products.

Definitions

The bill defines the following terms:

- "Attractive to children" means manufactured in the shape of or packaged in containers displaying humans, cartoons, animals, toys, or other features that target children; manufactured in a form or packaged in a container that bears any reasonable resemblance to an existing candy or snack product that is familiar to the public; manufactured in a form or packaged in a container that bears any reasonable resemblance to a branded food product such that the product could be mistaken for the branded food product, especially by children; or containing any color additives.
- "Contaminants unsafe for human consumption" includes, but is not limited to, any microbe, fungus, yeast, mildew, herbicide, pesticide, fungicide, residual solvent, metal, or other contaminant found in any amount that exceeds any of the accepted limitations as determined by rules adopted by the Department of Health in accordance with s. 381.986, or other limitation pursuant to the laws of this state, whichever amount is less.
- "Independent testing laboratory" means a laboratory that:
  - Does not have a direct or indirect interest in the entity whose product is being tested;
  - Does not have a direct or indirect interest in a facility that processes, distributes, dispenses, or sells kratom products in the state or in another jurisdiction or cultivates, processes, distributes, dispenses, or sells marijuana, as defined in s. 381.986; and

    - Is certified by the Department of Health as a medical marijuana testing laboratory pursuant to s. 381.988, or is certified by the department as being substantially equivalent to a medical marijuana testing laboratory.
- "Manufacturer" means any person or entity that engages in the process of manufacturing, preparing, or packaging of Kratom products.
- "Retailer" means any person or entity who sells kratom products to consumers.
- "Wholesaler" means any person or entity located inside or outside this state that delivers or sells products containing Kratom to retailers or other persons for purposes of resale. (Section 1)

Certification of Laboratories

The bill requires the Department of Agriculture and Consumer Services (DACS) to certify any laboratory located within the state or another state which meets the qualifications of an independent testing laboratory. However, a medical marijuana testing laboratory certified pursuant to s. 381.988, F.S., is not required to receive certification. (Section 1)

The bill requires DACS, with the assistance of the Department of Health, to adopt rules establishing the standards for certification of independent testing laboratories, and adopt rules for the testing of kratom products. (Section 1)

The rules must include, but are not limited to:
- Security standards.
- Minimum standards for personnel.
- Sample collection methods and process standards.
- Proficiency testing for Mitragynine, 7-hydroxymitragynine, and contaminants unsafe for human consumption, as determined by department rule.
- Reporting content, format, and frequency.
- Audits and onsite inspections.
- Quality assurance.
- Equipment and methodology.
- Chain of custody.
- Any other standard the department deems necessary. (Section 1)

DACS is required to:
- Renew the certification biennially if the laboratory meets certain requirements or rules.
- Adopt rules establishing a procedure for initial certification and biennial renewal.
- Publish on its website a list of all laboratories that have received certification. (Section 1)

The bill authorizes DACS to refuse to issue, renew, suspend, or revoke, the certification of an independent testing laboratory that is found to be in violation of certain provisions or DACS rules. (Section 1)

The bill requires the laboratories that receive certification DACS to agree to random unannounced audits and onsite inspections by DACS. (Section 1)

Distribution and Retail Sales

The bill authorizes the distribution and sale of kratom products in the state under the following conditions:
- The kratom product must:
    - Not be adulterated with a dangerous non-kratom substance affecting the quality or strength of the product to a degree that renders the product injurious to a consumer.
    - Not be contaminated with contaminants unsafe for human consumption or an otherwise deleterious non-kratom substance, including a controlled substance;
    - Contain a level of 7-hydroxymitragynine in the alkaloid fraction that is no more than two percent of the overall alkaloid composition of the product; and
    - Not contain any synthetic alkaloids, including synthetic 7-hydroxymitragynine and synthetically derived compounds from a plant of the Mitragyna speciosa.

- The kratom product must be tested by the manufacturer, the wholesaler, and the retailer by an independent testing laboratory.
- The independent testing laboratory's certificate of analysis must state the kratom product was tested for:
    - Synthetic alkaloids.
    - 7-hydroxymitragynine.
    - Heavy metals.
    - Mycotoxins.
    - Pesticides.
    - Potency.
    - Residual solvents.
    - Any other controlled substance.
    - Any other substance the department deems necessary.
- The kratom product must be distributed or sold in a container that:
    - Includes scannable barcode or quick response code linked to the certificate of analysis of the kratom product;
    - Includes the kratom product testing number;
    - Includes the expiration date of the kratom product;
    - Is suitable to contain products for human consumption;
    - Is composed of materials designed to minimize exposure to light;
    - Mitigates exposure to high temperatures;
    - Is a single color and is not transparent. However, this does not apply to the universal symbol;
    - Does not contain any pictures or images other than a single logo, which may not be attractive to children and may be no more than 20 percent of the container;
    - Contains a clear and conspicuous warning developed by the department that the product is a kratom product;
    - Contains a universal symbol that indicates the presence of kratom, which must be developed by the department;
    - Is not attractive to children; and
    - Is compliant with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq., without regard to provided exemptions. For purposes of this subparagraph, a beverage in a sealed container is considered compliant with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq. (Section 1)

The bill does not require a wholesaler or retailer to test their kratom products if:
- The product is packaged in a container in a manner that may be sold to the ultimate consumer when the wholesaler or retailer receives the product from the manufacturer or wholesaler;
- The product was tested by the manufacturer or wholesaler; and
- The wholesaler or retailer does not open the container. (Section 1)

The bill restricts the retail sale and delivery of kratom products, to the following methods:
- At establishments that:
    - Have a food permit from DACS; and
    - Prohibit persons under 21 years of age on the establishment's premises.
- At establishments that have a food permit from DACS and an alcoholic beverage quota license.
    - Establishments with a quota license, that allow persons under 21 years of age on the establishment's premises, are required to place kratom products, not including beverages, in an area inaccessible to customers.
    - Such establishments may place kratom products, not including beverages, in an open display unit as long as the unit is located in an area that is inaccessible to customers; or
- In accordance with the mail order, internet, and remote sales of kratom products requirements in s. 500.93, F.S. (Section 1)

The bill prohibits kratom products from being sold, given, bartered, furnished, or delivered to consumers at festivals, fairs, trade shows, farmers markets, expositions, or pop-up retail establishments.
The bill creates a graduated schedule of penalties for violations and the prohibition on underage sales, as follows:

- **First offense**: Second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S., F.S.
- **Second offense within 12 months of the first offense**: First degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S.
- **Third or subsequent offense within 12 months of the second offense**: Felony of the third-degree, punishable as provided in s. 775.082 or s. 775.083, F.S. (Section 1)

DACS is also authorized to take any of the following actions against any person licensed or permitted for a violation: place on probation or reprimand the licensee or permit, revoke, suspend, or deny the issuance or renewal of the license or permit, impose an administrative fine not to exceed $5,000 per violation or assess costs associated with investigation and prosecution. (Section 1)

The bill requires DACS to enforce these provisions, and requires every state attorney, sheriff, police officer, and other appropriate county or municipal officer to enforce, or assist DACS in enforcement. (Section 1)

Mail order, Internet, Remote Sales, and Age Verification

The bill provides the following definitions:

- "Consumer" means a person in the state who comes into possession of any kratom product who, at the time of possession, is not intending to sell or distribute the kratom product, or is not a retailer.
- "Delivery sale" means any sale of a kratom product to a consumer in the state for which:
  - The consumer submits the order for the sale by telephonic or other voice transmission, mail, delivery service, or the Internet or other online service; or
  - The kratom product is delivered by use of mail or a delivery service.
- "Delivery service" means any person engaged in the commercial delivery of letters, packages, or other containers.
- "Legal minimum purchase age" means the minimum age at which an individual may legally purchase kratom products in the state.
- "Retailer" has the same meaning as provided in s. 581.217, F.S.
- "Shipping container" means a container in which Kratom product is shipped in connection with a delivery sale.
- "Shipping document" means a bill of lading, airbill, United States Postal Service form, or any other document used to verify the undertaking by a delivery service to deliver letters, packages, or other containers.
- "Kratom Product" has the same meaning as provided in s. 500.92.
- "Wholesaler" has the same meaning as provided in s. 500.92. (Section 2)

The bill provides that:

- The sale of kratom products constitutes a delivery sale, as defined, and is a delivery sale regardless of whether the person accepting the order for the delivery sale is located inside or outside the state.
- A retailer is required to obtain a food permit from DACS under the Florida Food Safety Act before accepting an order for a delivery sale.
- A person may not make a delivery sale of Kratom product to any individual who is not 21 years of age or older.
- Each person accepting an order for a delivery sale must comply with the:
  - Age verification requirements.
  - Disclosure requirements.
  - Shipping requirements. (Section 2)

The bill prohibits mailing, shipping, or otherwise delivering kratom products in connection with an order for a delivery sale unless, before the first delivery to the consumer, the person accepting the order:

- Obtains from the person submitting the order a certification that includes:
  - Reliable confirmation that the person is 21 years of age or older; and
  - A statement signed by the person in writing and under penalty of perjury which:
    - Certifies the address and date of birth of the person; and
    - Confirms that the person wants to receive delivery sales from a Kratom product retailer and understands that, under the laws of the state, the following actions are illegal:

    - Signing another person's name to the certification;
    - Selling Kratom products to individuals who are not 21 years of age or older; and
    - Purchasing Kratom products, if the person making the purchase is not 21 years of age or older.
- Makes a good faith effort to verify the information contained in the certification provided by the individual against a commercially available database that may be reasonably relied upon for accurate age information or obtains a photocopy or other image of a valid government-issued identification card stating the date of birth or age of the individual.
- Provides to the individual, via electronic mail or other means, a notice.
- If an order for Kratom products is made pursuant to an advertisement on the Internet, receives payment for the delivery sale from the consumer by a credit or debit card issued in the name of the consumer, or by personal or company check of the consumer.
- Submits, to each credit card acquiring company with which the person has credit card sales, identification information in an appropriate form and format so that the words "Kratom product" may be printed in the purchaser's credit card statement when a purchase of Kratom products is made by credit card payment.
- Makes a telephone call after 5 p.m. to the purchaser confirming the order before shipping the Kratom product. The telephone call may be a person-to-person call or a recorded message. The person accepting the order for delivery sale is not required to speak directly with a person and may leave a message on an answering machine or through voice mail. (Section 2)

In addition to these shipping requirements, a person accepting an order for a delivery sale is authorized to request that a consumer provide an electronic mail address. (Section 2)

The bill requires the pre delivery shipping notice to include prominent and clearly legible statements that sales of Kratom products are:

- Illegal if made to individuals who are not 21 years of age or older.
- Restricted to those individuals who provide verifiable proof of age. (Section 2)

The bill requires each person who mails, ships, or otherwise delivers Kratom products in connection with an order for a delivery sale to:

- Ship the Kratom product in a container that complies with the container requirements in s. 500.92, F.S.
- Include as part of the shipping documents, in a clear and conspicuous manner, the following statement: "Kratom product: Florida law prohibits shipping to individuals under 21 years of age."
- Use a method of mailing, shipping, or delivery which obligates the delivery service to require proof that the individual accepting the order for the delivery sale is 21 years of age or older and resides at the address listed on the order label, by reviewing a valid, government-issued identification card bearing a photograph of the individual who signs to accept delivery of the shipping container. (Section 2)

If the person accepting a purchase order for a delivery sale delivers the Kratom product without using a delivery service, the person must comply with all of the requirements which apply to a delivery service. Any failure to comply constitutes a violation. (Section 2)

The delivery sale provisions do not apply to delivery sales of kratom products to a retailer or wholesaler. (Section 2)

The bill provides that an individual 21 years of age or older who knowingly violates any provision of the shipping requirements commits a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S., and the Attorney General, or a state attorney may bring an action to prevent or restrain violations. (Section 2)

Seizure and Destruction of Contraband Kratom Products

The bill provides that kratom products sold, offered for sale, delivered, or distributed contrary to any provision of ss. 500.92-500.93, F.S., of the Florida Kratom Consumer Protection Act:

- Are declared to be contraband;
- Are subject to seizure and confiscation under the Florida Contraband Forfeiture Act by any person whose duty it is to enforce those sections; and

- Must be disposed of as follows:
    - A court having jurisdiction must order such kratom products forfeited upon a showing that, by a preponderance of the evidence, such devices were sold, offered for sale, delivered, or distributed contrary to any provision of ss. 500.92-500.93, F.S. Once any chapter 120, F.S. proceedings related to such products have been completed, the court must order any seized kratom products destroyed except as provided by applicable court orders. A record of the place where such products were seized, the kinds and quantities of such products destroyed, and the time, place, and manner of the destruction of such products must be kept, and a return under oath reporting the destruction must be made to the court by the officer who destroys such products.
    - DACS or seizing law enforcement agency must keep a full and complete record of all products seized under this section showing:
        - The exact kinds, quantities, and forms of such products;
        - The persons from whom such products were seized and to whom they were delivered;
        - By whose authority such products were seized, delivered, and destroyed; and
        - The dates of the seizure, disposal, or destruction of such products.
    - Such record must be open to inspection by all persons charged with the enforcement of ss. 581.217 through 581.218, F.S., the state hemp program.
    - The cost of seizure, confiscation, and destruction of contraband kratom products is borne by the person from whom such products are seized.
    - Except as otherwise provided, the procedures of the Florida Contraband Forfeiture Act apply to this Act.
    - Kratom products has the same meaning as provided in s. 500.92, F.S. (Section 3)

Ingesting Kratom Products Near School Property

The bill prohibits ingesting kratom products in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. This section does not apply to any person occupying a moving vehicle or within a private residence. (Section 4)

The bill authorizes law enforcement officers to issue a citation as prescribed by a county or municipality for violations, that include:

- The date and time of issuance.
- The name and address of the person cited.
- The date and time the civil infraction was committed.
- The statute violated.
- The facts constituting the violation.
- The name and authority of the law enforcement officer.
- The procedure for the person to follow to pay the civil penalty, to contest the citation, or to appear in court.
- The applicable civil penalty if the person elects not to contest the citation.
- The applicable civil penalty if the person elects to contest the citation. (Section 4)

The bill provides that such citations are deemed a civil infraction punishable by a maximum civil penalty of $25, or 50 hours of community service or, where available, successful completion of a school-approved anti-drug "alternative to suspension" program. (Section 4)

The bill provides that failure to comply with the citation is deemed as a waiver of the right to contest the citation and an order to show cause may be issued by the court. (Section 4)

Division of Alcoholic Beverages and Tobacco

The bill authorizes:

- An alcoholic beverage vendor licensed to operate a place of business where beverages are sold only in sealed containers for consumption off the premises (package store licensee) to sell kratom products in accordance with the Florida Kratom Consumer Protection Act. (Section 5)
- An alcoholic beverage quota licensee to sell kratom products in accordance with the Florida Kratom Consumer Protection Act. (Section 6)

- The Department of Business and Professional Regulation (DBPR) Division of Alcoholic Beverages and Tobacco (ABT) to discipline the permit of a retail tobacco products dealer, or a retail nicotine products dealer, for violations of the Florida Kratom Consumer Protection Act. (Section 7 and 8)

Effective Date
The effective date of the bill is January 1, 2025. (Section 9)

RULEMAKING:

The bill requires DACS to adopt rules:
- Establishing standards for certification of independent testing laboratories.
- For the testing of kratom products.
- A procedure for initial certification and biennial renewal.

The bill requires the Department of Health to assist DACS in developing rules for the certification of independent testing laboratories.

Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

Indeterminate. The bill may increase expenditures and revenues for DACS and DBPR, related to additional administration and enforcement costs, and the collection of related fees and fines.

PRIVATE SECTOR:

Indeterminate. The bill may increase expenditures for manufacturers, retailers, and wholesalers to satisfy the new regulatory requirements in the bill. However, such requirements may result in a cost savings to the extent that improvements are made to the health and safety related to the consumption of kratom products.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Kratom
Kratom is a tropical tree native to Southeast Asia, which contains two major psychoactive ingredients, mitragynine and 7-hydroxymytragynine, in its leaves.[1] The leaves are crushed and then smoked, brewed with tea, or placed into gel capsules.[2] Consumption of kratom leaves can produce stimulant and sedative effects, and may also lead to psychotic symptoms.[3]

Some research has found that kratom can be used as a substitute for opiate users to combat withdrawal symptoms, as well as to treat muscle ache, fatigue, and other conditions.[4] Low doses of kratom are said to produce a stimulant effect, while higher doses may produce an opioid-like effect.[5] Additionally, research points to the potential for

[1] Drug Enforcement Administration, *Kratom* (April 2020), https://www.dea.gov/sites/default/files/2020-06/Kratom-2020_0.pdf (last visited Mar. 28, 2025).
[2] *Id*.
[3] *Id*.
[4] *See* Dimy Fluyau and Neelambika Revedigar, *Biochemical Benefits, Diagnosis, and Clinical Risks Evaluation of Kratom*, FRONTIERS IN PSYCH. J. VOL. 8 (April 24, 2017) https://www.frontiersin.org/articles/10.3389/fpsyt.2017.00062/full (last visited Mar. 25, 2025).
[5] Fluyau and Neelambika, *supra* note 6.

further development of mitragynine and the use of kratom as a harm reduction agent.[6] Even so, the toxicity of kratom remains a topic of discussion, as well as its potential to cause herb-drug interactions and even be involved in fatalities.[7] While research on kratom is in early stages, kratom itself has the potential to be addictive and has not been shown to be safe or effective for any medical use.[8]

According to the FDA, kratom is not appropriate for use as a dietary supplement. The FDA has concluded from available information, including scientific data, that kratom is a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury and, therefore, dietary supplements that are or contain kratom are adulterated under the FD&C Act. Further, FDA has determined that kratom, when added to food, is an unsafe food additive. Based on these determinations by FDA, kratom is not lawfully marketed as a dietary supplement and cannot be lawfully added to conventional foods.[9]

Florida Kratom Consumer Protection Act of 2023

In 2023, the Legislature enacted the Florida Kratom Consumer Protection Act,[10] which made it unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, any kratom product to a person under 21 years of age. Violations are a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S.[11]

The Florida Department of Agriculture and Consumer Services (DACS) is required to adopt rules to implement the act. The rules include the following requirements:[12]

- Each establishment distributing products consisting of or containing Kratom Products must be permitted as a Food Establishment pursuant under the Florida Food Safety Act.
- Kratom Products must be packaged and labeled as required by the Florida Food Safety Act.
- Retailers that sell Kratom must display signs regarding the age limit for purchasing Kratom.
- Food Establishments must obtain confirmation that the purchaser is 21 years of age or older before mailing the product.
- Food Establishments must require proof of age from a purchaser of any Kratom product before selling the product to that person.
- Kratom products shall not be offered for sale by means of vending machines.

The rule authorizes DACS to enforce violations by imposing stop-sale/stop-use orders, administrative fines of up to $5,000 per violation, permit suspensions, and/or revocations, and other administrative disciplinary procedures.[13]

State and Federal Prohibitions

Currently, kratom is not listed as a controlled substance under federal law or Florida law. In 2016, the U.S. Drug Enforcement Administration (DEA) submitted a notice of intent to place kratom into Schedule I of the Controlled Substances Act (CSA) based on abuse potential and risk to public health.[14] However, the DEA withdrew the notice a few months later based on public comments.[15] In a letter obtained by an industry group, U.S. Health and Human Services appeared to rescind their recommendation to the DEA to place kratom on Schedule I of the CSA in 2018,

[6] *See* Charles Veltri and Oliver Grundmann, *Current Perspectives on the Impact of Kratom Use*, SUBSTANCE ABUSE AND REHAB. J. VOL. 10, 23-31 (July 1, 2019) https://pubmed.ncbi.nlm.nih.gov/31308789/ (last visited Mar. 25, 2025).
[7] *Id.*; *see also* FLORIDA DEPT. LAW ENF'T, Drugs https://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2021-Interim-Drug-Report-FINAL.aspx (last visited Mar. 25, 2025). In May of 2022 the Florida Department of Law Enforcement published its 2021 Interim Report, which found a 36% rise in kratom-involved deaths over the first half of 2021.
[8] NAT'L CENTER FOR COMPLEMENTARY AND INTEGRATIVE HEALTH, *Kratom*, https://www.nccih.nih.gov/health/kratom (last visited Mar. 25, 2025).
[9] U.S. Food & Drug Administration, *FDA and Kratom*, https://www.fda.gov/news-events/public-health-focus/fda-and-kratom (last visited Mar. 25, 2025).
[10] Ch. 2023-182, Laws of Fla.
[11] S. 500.92, F.S.
[12] R. 5K-4.030, F.A.C.
[13] *Id.*
[14] 81 FR 59929.
[15] 81 FR 70652

stating that such action should wait until it is supported by further research on kratom uses, abuse, and risks.[16] The DEA continues to label kratom as a drug of concern.[17]

The U.S. Food and Drug Administration (FDA) has stated that there is substantial concern regarding the safety of kratom and the risk it may pose to public health, and indicated that there are currently no FDA-approved uses for kratom.[18] The FDA is actively evaluating all available scientific information on the safety and effects of kratom and continues to warn consumers not to use any kratom products, but has made no official findings.[19]

In 2015, the FDA issued an import alert[20] that labels kratom as an adulterating ingredient.[21] As a result, the FDA seized imports of kratom-containing dietary supplements and bulk dietary ingredients. In May of 2021, the FDA announced the seizure of around 37,500 tons of adulterated kratom in Fort Myers, Florida, worth an estimated $1.3 million.[22] On October 26, 2021, a consent decree of condemnation and destruction against the seized articles by the FDA was entered, which required the claimants to pay a penal bond and destroy all seized articles.[23]

Generally, the official federal legal and regulatory status of kratom or kratom included in food products is still being decided.

In 2014, Sarasota County banned kratom, labeling it as a designer drug.[24] With the exception of Sarasota County, in Florida, all parts of the plant and its extracts are legal to cultivate, buy, possess, and distribute without a license or prescription.

Kratom is illegal in Alabama,[25] Arkansas,[26] Indiana,[27] Rhode Island,[28] Vermont,[29] and Wisconsin.[30] Other states such as Arizona,[31] Georgia,[32] Texas,[33] and Utah[34] regulate kratom under their state's version of the Kratom Consumer Protection Act. A total of sixteen states regulate the sale of kratom products in some fashion. The state laws are not uniform. Their differences arise in their handling of particular issues relating to kratom products. These issues include:[35]

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[16] Josh Long, *HHS in 2018 rescinded recommendation to schedule kratom as a drug*, Jan. 28, 2021, https://www.naturalproductsinsider.com/regulatory/hhs-2018-rescinded-recommendation-schedule-kratom-drug (last visited Mar. 28, 2025).
[17] U.S. Drug Enforcement Administration, *Kratom*, https://www.dea.gov/factsheets/kratom (last visited Mar. 28, 2025).
[18] U.S. Food and Drug Administration, *FDA and Kratom*, https://www.fda.gov/news-events/public-health-focus/fda-and-kratom (last visited Mar. 25, 2025).
[19] *Id*.
[20] U.S. Food and Drug Administration, *Import Alert 54-15*, Import Alert 54-15 (fda.gov) (last visited Mar. 25, 2025).
[21] *Id*. The FDA labeled kratom as adulterating based on the absence of a history of use or other evidence of safety establishing that kratom will reasonably be expected to be safe as a dietary ingredient, kratom and kratom-containing dietary supplements and bulk dietary ingredients are adulterated because they contain a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury.
[22] U.S. Food and Drug Administration, *FDA Announces Seizure of Adulterated Dietary Supplements Containing Kratom*, May 21, 2021, https://www.fda.gov/news-events/press-announcements/fda-announces-seizure-adulterated-dietary-supplements-containing-kratom (last visited Mar. 25, 2025).
[23] *Id*.
[24] *See* Sarasota, FL., Code of Ordinances, Sec. 62-351 (2014).
[25] *See* Alabama Public Health, *Controlled Substance List* (Jan. 20, 2021), https://www.alabamapublichealth.gov/blog/assets/controlledsubstanceslist.pdf (last visited Mar. 25, 2025).
[26] *See* Arkansas Department of Health, *List of Controlled Substances*, available at https://healthy.arkansas.gov/wp-content/uploads/Controlled_Substances_List.pdf (last visited Mar. 25, 2025).
[27] *See* IC 35-31.5-2-321.
[28] Rhode Island Department of Health, *Designation of Controlled Substance* (Apr. 10, 2017), https://docs.wixstatic.com/ugd/9ba5da_9836aee2b9f04a30b55fe480fe3c6ff4.pdf (last visited Mar. 30, 2025).
[29] *See* Vt. Admin. Code 12-5-23:4.0.
[30] *See* W.S.A. 961.14.
[31] *See* AZ Rev Stat § 36-795.02.
[32] *See* GA Code § 16-13-121.
[33] Texas Health and Safety Code Ann. Ch. 444 (2023).
[34] *See* UT Code § 4-45-101.
[35] Congressional Research Service, *Kratom Regulation: Federal Status and State Approaches*, https://www.congress.gov/crs-product/LSB11082 (last visited Mar. 30, 2025).

- Age restrictions
- Marketing to children.
- Adulteration and contamination.
- Strength.
- Labeling.
- Testing and sampling.
- Regtistration and permitting.
- Synthetic alkaloids.
- Local authority.
- Private right of action.
- Taxation.

Federal Food, Drug, and Cosmetic Act

The Federal Food, Drug, and Cosmetic Act (FDCA) is a federal law which establishes the legal framework within which the FDA operates.[36] The FDA develops regulations under the FDCA for the safety of foods, drugs, and cosmetics based on the laws set forth in the FDCA, including when a food is adulterated.[37] Instances where a food must be determined to be adulterated include when it:[38]

- Bears or contains any poisonous or deleterious substance which may render it injurious to health; such as consisting in whole or in part of any filthy, putrid, or decomposed substance;
- Is a dietary supplement or contains a dietary ingredient that presents a significant or unreasonable risk of illness or injury under use pursuant to the label;
- Is a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury.

When a food is determined to be adulterated, the FDA may take the following compliance measures:[39]

- Warning and untitled letters,
- Import alerts,
- Recalls,
- Debarment,
- Civil money penalties,
- Seizure of products,
- Injunctions, and
- Criminal prosecution.

Florida Food Safety Act

The purpose of the Florida Food Safety Act (Act)[40] is to safeguard and protect the consuming public from product use and merchandising deceit regarding the intrastate commerce of food. The Act is also meant to promote conformance with the Federal Food, Drug, and Cosmetic Act,[41] Agriculture Marketing Act of 1946,[42] and Federal Trade Commission Act.[43][44]

DACS is the agency responsible for the enforcement of the production, manufacture, transportation, and sale of food through the Act. The DACS Division of Food Safety (Division) is directly responsible for assuring the public of a safe, wholesome, and properly represented food supply.[45] The division accomplishes this through the

[36] 21 U.S.C. 301.
[37] *See* 21 C.F.R. §§ 1-1299.
[38] 21 U.S.C. 342.
[39] CRS Report R43609, *Enforcement of the Food, Drug, and Cosmetic Act: Select Legal Issues*, February 9, 2018, https://www.everycrsreport.com/reports/R43609.html#fn96 (last visited Mar. 25, 2025).
[40] *See* ch. 500, F.S.
[41] 21 U.S.C. §§ 301-399d.
[42] 7 U.S.C. §§ 1621-1629.
[43] 5 U.S.C. §§ 41-58, as amended.
[44] S. 500.02, F.S.
[45] FDACS, *Division of Food Safety*, https://www.fdacs.gov/Divisions-Offices/Food-Safety (last visited March 8, 2025).

permitting[46] and inspection[47] of food establishments,[48] the inspection and evaluation of food products, and the performance of specialized laboratory testing on a variety of food products sold or produced in Florida.[49] The Division also proactively monitors food from manufacturing and distribution to retail.[50]

As part of its responsibilities, DACS can impose a variety of disciplinary actions against food establishments for specified violations.[51] This includes, but is not limited to, revoking or suspending[52] the permit of a food establishment or imposing Class II[53] administrative fines.[54] DACS, or its duly authorized agent, can also issue and enforce a stop-sale, stop-use, removal, or hold order if DACS or its agent finds any food, food processing equipment, area, or food storage area is in violation of the Florida Food Safety Act.[55]

Many FDA regulations have been adopted as rules of the division.[56]

The following are examples when food is deemed adulterated: [57]

- Food that bears or contains any poisonous or deleterious substance which may render it injurious to health;
- Food that bears or contains any added poisonous or added deleterious substance; a food additive; or a color additive, which is unsafe;
- Food that is or bears or contains any food additive which is unsafe;
- Food whose container is composed, in whole or in part, of any poisonous or deleterious substance;
- Food where any substance has been substituted wholly or in part therefor;
- Food where damage or inferiority has been concealed in any manner; and
- A dietary supplement or its ingredients that present a significant risk of illness or injury due to certain labeling and ingredient requirements.

Misbranded food includes food offered for sale and its label or labeling does not comply with the requirements of 21 U.S.C. s. 343(r) pertaining to nutritional content claims and health claims. Labels for supplements may not claim to diagnose, mitigate, treat, cure, or prevent a specific disease or class of diseases.[58]

DACS may inspect food that may be adulterated or misbranded;[59] seize food that is adulterated or misbranded;[60] suspend permits of those who sell food that is adulterated or misbranded, adulterate or misbrand food, or receive food in commerce that is adulterated or misbranded;[61] and impose a fine for adulterated or misbranded food, not to exceed $5,000[62] per violation.[63]

Florida Contraband Forfeiture Act

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[46] S. 500.12, F.S.
[47] S. 500.147, F.S.
[48] S. 500.03(1)(p), F.S., defines "food establishment" as a factory, food outlet, or other facility manufacturing, processing, packing, holding, storing, or preparing food or selling food at wholesale or retail. The term does not include a business or activity regulated under s. 413.051, s. 500.80, chapter 509, or chapter 601. The term includes tomato packinghouses and repackers but does not include any other establishments that pack fruits and vegetables in their raw or natural states, including those fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled, natural form before they are marketed.
[49] S. 500.09(6), F.S.
[50] S. 500.81(3)(b)1., F.S.
[51] S. 500.121, F.S.
[52] *Id.*
[53] The fine for each Class II violation cannot exceed $5,000. S. 570.971(1)(b), F.S.
[54] S. 500.121, F.S.
[55] S. 500.172, F.S.
[56] R. 5K-4.002, F.A.C.
[57] S. 500.10, F.S.
[58] S. 500.11(1)(n), F.S.; 21 U.S.C. s. 343 (r)(6)(C.
[59] S. 500.147(1), F.S.
[60] S. 500.173, F.S.
[61] S. 500.12(4), F.S.
[62] S. 570.971(1)(b), F.S.
[63] S. 500.121, F.S.

The Florida Contraband Forfeiture Act[64] prescribes procedures for law enforcement agencies to follow when seizing, forfeiting, and disposing of property under the act. Property may only be seized if the owner of the property is arrested for a criminal offense that forms the basis for determining that the property is a contraband article, or if one of the following circumstances apply:[65]

- The owner of the property cannot be identified after a diligent search, or the person in possession of the property denies ownership and the owner of the property cannot be identified by means that are available to the employee or agent of the seizing agency at the time of the seizure;
- The owner of the property is a fugitive from justice or is deceased;
- An individual who does not own the property is arrested for a criminal offense that forms the basis for determining that the property is a contraband article and the owner of the property had actual knowledge of the criminal activity;
- The owner of the property agrees to be a confidential informant; or
- The property is a monetary instrument.

Florida Clean Indoor Air ACT

The FCIAA prohibits any person under the age of 21 from smoking tobacco or vaping within 1,000 feet of a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. A violation of this prohibition is punishable by a maximum noncriminal civil penalty not to exceed $25, 50 hours of community service or, where available, successful completion of a school-approved anti-tobacco "alternative to suspension."[66]

Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (ABT) within the Department of Business and Professional Regulation (DBPR) is the state agency responsible for the regulation and enforcement of alcoholic beverages, tobacco products, and nicotine products. Alcoholic beverages are regulated by the Beverage Law,[67] which governs the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.[68] Tobacco and nicotine products are regulated by the tobacco and nicotine products law, which governs the purchasing, possessing, and regulation of the marketing, sale, or delivery by manufacturers and dealers.[69]

Tobacco and Nicotine Product Retailers

In order to sell tobacco products or nicotine products at retail in Florida, a person must obtain a retail tobacco products dealer permit or retail nicotine products dealer permit from the Division. A person must obtain a permit for each place of business or premises where tobacco or nicotine products are sold. [70]

The Division may discipline a tobacco retailer or nicotine product retailer's permit for violating any of the provisions relating to the retail sale of such products. Such discipline includes administrative fines up to $1,000 and suspension or revocation of a permit.[71]

However, the Division may not discipline a tobacco retailer or nicotine product retailer's permit for other violations of the law, including violating the state hemp program.

Package Stores

A package store is a vendor operating a place of business where beverages are sold only in sealed containers for consumption off the premises.[72] Package stores may not sell, offer, or expose for sale any merchandise other than such beverages, and such places of business must be devoted exclusively to such sales. However, package stores may sell, in addition to alcoholic beverages:[73]

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[64] Ss. 932.701-932.7062, F.S.,
[65] S. 932.703(1), F.S.
[66] S. 386.212, F.S.
[67] S. 561.01(6), F.S., provides that the "The Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.
[68] *See* s. 561.14, F.S.
[69] *See* ch. 569, F.S.
[70] Ss. 569.003 and 569.32, F.S.
[71] Ss. 569.006 and 569.35, F.S.
[72] S. 565.02(1)(a), F.S.
[73] S. 565.04, F.S.

- bitters,
- grenadine,
- nonalcoholic mixer-type beverages,
- fruit juices produced in this state,
- home bar, and party supplies and equipment,
- miniatures of no alcoholic content, and
- tobacco products.

Quota Licensees

Currently, there is not a limit on the number of licenses the Division may issue to businesses selling malt beverages or wine. However, the law limits the number of licenses for selling distilled spirits to one license per 7,500 residents within the county with a minimum of three licenses per county for counties that have approved the sale of intoxicating liquors. These licenses are known as quota licenses and are the only type of alcoholic beverage license that is limited in number.[74]

Current law limits the types of items quota licensees may sell. Currently, quota licensees may only sell alcoholic beverages, bitters, grenadine, nonalcoholic mixer-type beverages, fruit juices, party supplies, party-type foods, miniatures of no alcoholic content, nicotine products, and tobacco products. If the quota licensee allows for the consumption of alcohol on the licensee's establishment then they may also sell items customarily sold in a restaurant.[75]

Current law does not prohibit quota licensees from selling products containing kratom; however, it also does not specifically allow it.

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2023	CS/HB 179	Andrade	Gruters	The bill became law on July 1, 202

OTHER RESOURCES:

United States Drug Enforcement Administration, Kratom

United States Food & Drug Administration, FDA and Kratom

University of Florida College of Pharmacy, Kratom Resources

Cleveland Clinic, Is Kratom Safe To Use?

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Orig. Comm.: Industries & Professional Activities Subcommittee			Anstead	Thompson

[74] S. 561.20, F.S.
[75] S. 565.045, F.S.

A bill to be entitled

An act relating to kratom products; amending s. 500.92, F.S.; adding sections to the Florida Kratom Consumer Protection Act; creating definitions; providing for the certification of certain laboratories; providing requirements for the sale and distribution of kratom products; providing that only certain businesses may sell kratom products at retail and under certain conditions; providing that kratom may nt be sold at certain places; revising criminal penalties; providing administrative penalties; providing jurisidiction for certain law enforcement agencies; creating s. 500.93, F.S.; defining terms; providing requirements for mail order, Internet, and remote sales of kratom products; providing applicability; providing criminal penalties; creating s. 500.94, F.S.; declaring certain kratom products as contraband subject to seizure and confiscation by certain persons under the Florida Contraband Forfeiture Act; providing procedures for the seizure and destruction of such kratom products; providing applicability; creating s. 500.95, F.S., prohibiting using kratom products within a certain distance from a school and at certain times; authorizing a law enforcement officer to issue citations; amending s.

565.04, F.S.; providing that certain alcoholic beverage licensees may sell kratom products; amending s. 565.045, F.S.; providing that certain alcoholic beverage licensees may sell kratom products; amending s. 569.006, F.S.,; providing that the division of alcoholic beverages and tobacco may discipline a retail tobacco products dealer for certain violations of the law; amending s. 569.35, F.S.; providing that the division of alcoholic beverages and tobacco may discipline a retail nicotine products dealer for certain violations of the law; providing an effective date.

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

Section 1. Section 500.92, Florida Statutes, is amended to read:

500.92 Florida Kratom Consumer Protection Act.—

(1) Sections 500.92-500.95 ~~This section~~ may be cited as the "Florida Kratom Consumer Protection Act."

(2) DEFINITIONS.-As used in this section, the term:

(a) "Attractive to children" means manufactured in the shape of or packaged in containers displaying humans, cartoons, animals, toys, or other features that target children; manufactured in a form or packaged in a container that bears any

reasonable resemblance to an existing candy or snack product that is familiar to the public; manufactured in a form or packaged in a container that bears any reasonable resemblance to a branded food product such that the product could be mistaken for the branded food product, especially by children; or containing any color additives.

(b) "Contaminants unsafe for human consumption" includes, but is not limited to, any microbe, fungus, yeast, mildew, herbicide, pesticide, fungicide, residual solvent, metal, or other contaminant found in any amount that exceeds any of the accepted limitations as determined by rules adopted by the Department of Health in accordance with s. 381.986, or other limitation pursuant to the laws of this state, whichever amount is less.

(c) "Independent testing laboratory" means a laboratory that:

1. Does not have a direct or indirect interest in the entity whose product is being tested;

2. Does not have a direct or indirect interest in a facility that processes, distributes, dispenses, or sells kratom products in the state or in another jurisdiction or cultivates, processes, distributes, dispenses, or sells marijuana, as defined in s. 381.986; and

3. Is certified by the Department of Health as a medical marijuana testing laboratory pursuant to s. 381.988, or is

certified by the department as being substantially equivalent to a medical marijuana testing laboratory pursuant to subsection (11).

(d) "kratom product" means a food product, food ingredient, dietary ingredient, dietary supplement, or beverage intended for human consumption which contains any part of the leaf of the plant Mitragyna speciosa or an extract, synthetic alkaloid, or synthetically derived compound of such plant and is manufactured as a powder, capsule, pill, beverage, or other edible form.

(e) "Manufacturer" means any person or entity that engages in the process of manufacturing, preparing, or packaging of Kratom products.

(f) "Retailer" means any person or entity who sells kratom products to consumers.

(g) "Wholesaler" means any person or entity located inside or outside this state that delivers or sells products containing Kratom to retailers or other persons for purposes of resale.

(3) CERTIFICATION OF LABORATORIES.-

(a) The department must certify any laboratory located within this state or another state which meets the qualifications of an independent testing laboratory. However, a medical marijuana testing laboratory certified pursuant to s. 381.988 is not required to receive certification by the department.

(b) The department must adopt rules establishing the standards for certification of independent testing laboratories, and adopt rules for the testing of kratom products in accordance with this section. The Department of Health must assist the department in developing rules for the certification of independent testing laboratories, which must include, but are not limited to:

1. Security standards.

2. Minimum standards for personnel.

3. Sample collection methods and process standards.

4. Proficiency testing for Mitragynine, 7-hydroxymitragynine, and contaminants unsafe for human consumption, as determined by department rule.

5. Reporting content, format, and frequency.

6. Audits and onsite inspections.

7. Quality assurance.

8. Equipment and methodology.

9. Chain of custody.

10. Any other standard the department deems necessary.

(c) The department shall renew the certification biennially if the laboratory meets the requirements of this section or any rules adopted hereunder. The department shall adopt rules establishing a procedure for initial certification and biennial renewal.

(d) The department must publish on its website a list of

all laboratories that have received certification.

(e) The department may refuse to issue or renew, or may suspend or revoke, the certification of an independent testing laboratory that is found to be in violation of this section or any rules adopted by the department.

(f) Any laboratory that receives certification under this subsection from the department agrees to random unannounced audits and onsite inspections by the department or agents thereof.

(4) DISTRIBUTION AND RETAIL SALE OF KRATOM PRODUCTS.—

(a) Kratom products may only be distributed and sold in the state if all of the following conditions are met:

1. The kratom product:

a. Is not adulterated with a dangerous non-kratom substance affecting the quality or strength of the product to a degree that renders the product injurious to a consumer.

b. Is not contaminated with contaminants unsafe for human consumption or an otherwise deleterious non-kratom substance, including a controlled substance;

c. Contains a level of 7-hydroxymitragynine in the alkaloid fraction that is no more than two percent of the overall alkaloid composition of the product; and

d. Does not contain any synthetic alkaloids, including synthetic 7-hydroxymitragynine and synthetically derived compounds from a plant of the Mitragyna speciosa.

2. The kratom product is tested by the manufacturer, the wholesaler, and the retailer by an independent testing laboratory and the laboratory's certificate of analysis states:

a. The Kratom product was tested for:

b. Synthetic alkaloids.

c. 7-hydroxymitragynine.

d. Heavy metals.

e. Mycotoxins.

f. Pesticides.

g. Potency.

h. Residual solvents.

i. Any other controlled substance.

j. Any other substance the department deems necessary.

3. The kratom product is distributed or sold in a container that includes:

a. A scannable barcode or quick response code linked to the certificate of analysis of the kratom product;

b. The kratom product testing number;

c. The expiration date of the kratom product.

4. The kratom product is distributed or sold in a container that:

a. Is suitable to contain products for human consumption;

b. Is composed of materials designed to minimize exposure to light;

c. Mitigates exposure to high temperatures;

d. Is a single color and is not transparent. However, this does not apply to the universal symbol;

e. Does not contain any pictures or images other than a single logo, which may not be attractive to children and no more than 20 percent of the container;

f. Contains a clear and conspicuous warning developed by the department that the product is a kratom product;

g. Contains a universal symbol that indicates the presence of kratom, which must be developed by the department;

h. Is not attractive to children; and

i. Is compliant with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq., without regard to provided exemptions. For purposes of this subparagraph, a beverage in a sealed container is considered compliant with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq.

(b) A wholesaler or retailer is not required to test their kratom products in accordance with paragraph (a), if the product is packaged in a container in a manner that may be sold to the ultimate consumer when the wholesaler or retailer receives the product from the manufacturer or wholesaler, the product was tested in accordance with paragraph (a) by the manufacturer or wholesaler, and the wholesaler or retailer does not open the container.

(c) The retail sale and delivery of kratom products is

prohibited, except:

1. At establishments that have a food permit from the department and prohibit persons under 21 years of age on the establishment's premises;

2. At establishments that have a food permit from the department and a quota license issued under s. 565.02(1)(a)-(f). Establishments with a quota license issued under s. 565.02(1)(a)-(f), that allow persons under 21 years of age on the establishment's premises, must place kratom products, not including beverages, in an area inaccessable to customers. Such establishments may place kratom products, not including beverages, in an open display unit as long as the unit is located in an area that is inaccessible to customers; or

3. In accordance with the mail order, internet, and remote sales of kratom products requirements in s. 500.93.

(d) Kratom products may not be sold, given, bartered, furnished, or delivered to consumers at festivals, fairs, trade shows, farmers markets, expositions, or pop-up retail establishments.

(5)~~(3)~~ It is unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, any kratom product to a person who is under 21 years of age.

(6)~~(4)~~ A person who violates subsections (4) or (5) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for the first offense. A

person commits a second offense within 12 months of the first offense commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a third or subsequent offense within 12 months of the second offense commits a felony of the third-degree, punishable as provided in s. 775.082 or s. 775.083.

~~A violation of subsection (3) is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

(7) In addition to any other penalties provided by law, the department may take any of the following actions against any person licensed or permitted by the department for a violation of this section: place on probation or reprimand the licensee or permit, revoke, suspend, or deny the issuance or renewal of the license or permit, impose an administrative fine not to exceed $5,000 per violation or assess costs associated with investigation and prosecution.

(8) The department shall enforce this section. Every state attorney, sheriff, police officer, and other appropriate county or municipal officer shall enforce, or assist any agent of the department in enforcing, this section and rules adopted by the department.

(9)~~(5)~~ The department shall adopt rules to administer this section.

Section 2. Section 500.93, Florida Statutes, is created to read:

500.93 Mail order, Internet, and remote sales of Kratom products; age verification.—

(1) For purposes of this section, the term:

(a) "Consumer" means a person in the state who comes into possession of any kratom product who, at the time of possession, is not intending to sell or distribute the kratom product, or is not a retailer.

(b) "Delivery sale" means any sale of a kratom product to a consumer in the state for which:

1. The consumer submits the order for the sale by telephonic or other voice transmission, mail, delivery service, or the Internet or other online service; or

2. The kratom product is delivered by use of mail or a delivery service.

(c) "Delivery service" means any person engaged in the commercial delivery of letters, packages, or other containers.

(d) "Legal minimum purchase age" means the minimum age at which an individual may legally purchase kratom products in the state.

(e) "Retailer" has the same meaning as provided in s. 581.217.

(f) "Shipping container" means a container in which Kratom product is shipped in connection with a delivery sale.

(g) "Shipping document" means a bill of lading, airbill, United States Postal Service form, or any other document used to

verify the undertaking by a delivery service to deliver letters, packages, or other containers.

(h) "Kratom Product" has the same meaning as provided in s. 500.92.

(i) "Wholesaler" has the same meaning as provided in s. 500.92.

(2)(a) A sale of Kratom products constituting a delivery sale under paragraph (1)(b) is a delivery sale regardless of whether the person accepting the order for the delivery sale is located inside or outside the state.

(b) A retailer must obtain a food permit from the department under the requirements of chapter 500 before accepting an order for a delivery sale.

(c) A person may not make a delivery sale of Kratom product to any individual who is not 21 years of age or older.

(d) Each person accepting an order for a delivery sale must comply with each of the following:

1. The age verification requirements set forth in subsection (3).

2. The disclosure requirements set forth in subsection (4).

3. The shipping requirements set forth in subsection (5).

(3) A person may not mail, ship, or otherwise deliver Kratom product in connection with an order for a delivery sale unless, before the first delivery to the consumer, the person

accepting the order for the delivery sale:

(a) Obtains from the person submitting the order a certification that includes:

1. Reliable confirmation that the person is 21 years of age or older; and

2. A statement signed by the person in writing and under penalty of perjury which:

a. Certifies the address and date of birth of the person; and

b. Confirms that the person wants to receive delivery sales from a Kratom product retailer and understands that, under the laws of the state, the following actions are illegal:

(I) Signing another person's name to the certification;

(II) Selling Kratom products to individuals who are not 21 years of age or older; and

(III) Purchasing Kratom products, if the person making the purchase is not 21 years of age or older.

(b) Makes a good faith effort to verify the information contained in the certification provided by the individual under paragraph (a) against a commercially available database that may be reasonably relied upon for accurate age information or obtains a photocopy or other image of a valid government-issued identification card stating the date of birth or age of the individual.

(c) Provides to the individual, via electronic mail or

other means, a notice meeting the requirements of subsection (4).

(d) If an order for Kratom products is made pursuant to an advertisement on the Internet, receives payment for the delivery sale from the consumer by a credit or debit card issued in the name of the consumer, or by personal or company check of the consumer.

(e) Submits, to each credit card acquiring company with which the person has credit card sales, identification information in an appropriate form and format so that the words "Kratom product" may be printed in the purchaser's credit card statement when a purchase of Kratom products is made by credit card payment.

(f) Makes a telephone call after 5 p.m. to the purchaser confirming the order before shipping the Kratom product. The telephone call may be a person-to-person call or a recorded message. The person accepting the order for delivery sale is not required to speak directly with a person and may leave a message on an answering machine or through voice mail.

In addition to the requirements of this subsection, a person accepting an order for a delivery sale may request that a consumer provide an electronic mail address.

(4) The notice described in paragraph (3)(c) must include prominent and clearly legible statements that sales of Kratom

products are:

(a) Illegal if made to individuals who are not 21 years of age or older.

(b) Restricted to those individuals who provide verifiable proof of age in accordance with subsection (3).

(5) Each person who mails, ships, or otherwise delivers Kratom products in connection with an order for a delivery sale must:

(a) Ship the Kratom product in a container that complies with the container requirements in s. 500.92.

(b) Include as part of the shipping documents, in a clear and conspicuous manner, the following statement: "Kratom product: Florida law prohibits shipping to individuals under 21 years of age."

(c) Use a method of mailing, shipping, or delivery which obligates the delivery service to require proof that the individual accepting the order for the delivery sale is 21 years of age or older and resides at the address listed on the order label, by reviewing a valid, government-issued identification card bearing a photograph of the individual who signs to accept delivery of the shipping container.

If the person accepting a purchase order for a delivery sale delivers the Kratom product without using a delivery service, the person must comply with all of the requirements of this

section which apply to a delivery service. Any failure to comply with a requirement of this section constitutes a violation thereof.

(6) This section does not apply to delivery sales of kratom products to a retailer or wholesaler.

(7) An individual 21 years of age or older who knowingly violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The Attorney General, the Attorney General's designee, or a state attorney may bring an action in the appropriate court in the state to prevent or restrain violations of this section by any person.

Section 3. Section 500.94, Florida Statutes, is created to read:

500.94 Seizure and destruction of contraband kratom products.—

All kratom products sold, offered for sale, delivered, or distributed contrary to any provision of ss. 500.92-500.93 are declared to be contraband, are subject to seizure and confiscation under the Florida Contraband Forfeiture Act by any person whose duty it is to enforce those sections, and must be disposed of as follows:

(1) A court having jurisdiction shall order such kratom products forfeited upon a showing that, by a preponderance of

the evidence, such devices were sold, offered for sale, delivered, or distributed contrary to any provision of ss. 500.92-500.93. Once any chapter 120 proceedings related to such products have been completed, the court shall order any seized kratom products destroyed except as provided by applicable court orders. A record of the place where such products were seized, the kinds and quantities of such products destroyed, and the time, place, and manner of the destruction of such products must be kept, and a return under oath reporting the destruction must be made to the court by the officer who destroys such products.

(2) The department or seizing law enforcement agency shall keep a full and complete record of all products seized under this section showing:

(a) The exact kinds, quantities, and forms of such products;

(b) The persons from whom such products were seized and to whom they were delivered;

(c) By whose authority such products were seized, delivered, and destroyed; and

(d) The dates of the seizure, disposal, or destruction of such products.

Such record must be open to inspection by all persons charged with the enforcement of ss. 581.217 through 581.218.

(3) The cost of seizure, confiscation, and destruction of

contraband kratom products is borne by the person from whom such products are seized.

(4) Except as otherwise provided in this section, the procedures of the Florida Contraband Forfeiture Act apply to this section.

(5) For purposes of this section kratom products has the same meaning as provided in s. 500.92.

Section 4. Section 500.95, Florida Statutes, is created to read:

500.95 Ingesting kratom products prohibited near school property; penalty.—

(1) It is unlawful for any person to ingest kratom products in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. This section does not apply to any person occupying a moving vehicle or within a private residence.

(2) A law enforcement officer may issue a citation in such form as prescribed by a county or municipality to any person violating this section. Any such citation must contain:

(a) The date and time of issuance.

(b) The name and address of the person cited.

(c) The date and time the civil infraction was committed.

(d) The statute violated.

(e) The facts constituting the violation.

(f) The name and authority of the law enforcement officer.

(g) The procedure for the person to follow to pay the civil penalty, to contest the citation, or to appear in court.

(h) The applicable civil penalty if the person elects not to contest the citation.

(i) The applicable civil penalty if the person elects to contest the citation.

(3) Any person issued a citation pursuant to this section shall be deemed to be charged with a civil infraction punishable by a maximum civil penalty not to exceed $25, or 50 hours of community service or, where available, successful completion of a school-approved anti-drug "alternative to suspension" program.

(4) Any person who fails to comply with the directions on the citation shall be deemed to waive his or her right to contest the citation and an order to show cause may be issued by the court.

(5) For purposes of this section “kratom product” has the same meaning as provided in s. 500.92.

Section 5. Subsection (1) of section 565.04, Florida Statutes, is amended to read:

565.04 Package store restrictions.—

(1) Vendors licensed under s. 565.02(1)(a) shall not in said place of business sell, offer, or expose for sale any merchandise other than such beverages, and such places of business shall be devoted exclusively to such sales; provided,

however, that such vendors shall be permitted to sell bitters; grenadine; nonalcoholic mixer-type beverages, not to include fruit juices produced outside this state; fruit juices produced in this state; home bar and party supplies and equipment, including but not limited to glassware and party-type foods; miniatures of no alcoholic content; nicotine products; and tobacco products. Such places of business shall have no openings permitting direct access to any other building or room, except to a private office or storage room of the place of business from which patrons are excluded. Vendors licensed under 565.02(1)(a) may sell kratom products in accordance with the Florida Kratom Consumer Protection Act.

Section 6. Paragraph (a) of subsection (2) of section 565.045, Florida Statutes, is amended to read:

565.045 Regulations for consumption on premises; penalty; exemptions.—

(2)(a) There shall not be sold at such places of business anything other than the beverages permitted, home bar and party supplies and equipment (including but not limited to glassware and party-type foods), cigarettes, kratom products in accordance with the Florida Kratom Consumer Protection Act, and what is customarily sold in a restaurant.

Section 7. Section 569.006, Florida Statutes, is amended to read:

569.006 Retail tobacco products dealers; administrative

penalties.—The division may suspend or revoke the permit of the dealer upon sufficient cause appearing of the violation of any of the provisions of s. 500.92, s. 500.93, this chapter, including part II of this chapter if the dealer deals, at retail, in nicotine products within the state or allows a nicotine products vending machine to be located on its premises within the state, by a dealer or by a dealer's agent or employee. The division may also assess and accept administrative fines of up to $1,000 against a dealer for each violation. The division shall deposit all fines collected into the General Revenue Fund as collected. An order imposing an administrative fine becomes effective 15 days after the date of the order. The division may suspend the imposition of a penalty against a dealer, conditioned upon the dealer's compliance with terms the division considers appropriate.

Section 8. Section 569.35, Florida Statutes, is amended to read:

569.35 Retail nicotine product dealers; administrative penalties.—The division may suspend or revoke the permit of a dealer, including the retail tobacco products dealer permit of a retail tobacco products dealer as defined in s. 569.002(4), upon sufficient cause appearing of the violation of any of the provisions of s. 500.92, s. 500.93, this part, by a dealer, or by a dealer's agent or employee. The division may also assess and accept an administrative fine of up to $1,000 against a

dealer for each violation. The division shall deposit all fines collected into the General Revenue Fund as collected. An order imposing an administrative fine becomes effective 15 days after the date of the order. The division may suspend the imposition of a penalty against a dealer, conditioned upon the dealer's compliance with terms the division considers appropriate.

Section 9. This act shall take effect January 1, 2026.