

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB SICR 09-02 Pari-mutuel Permitholders

**SPONSOR(S):** Select Committee on Seminole Indian Compact Review

**TIED BILLS:** HB 7129 **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Select Committee on Seminole Indian Compact Review	16 Y, 4 N	Liepshutz	Levesque
1)	_____	_____	_____	_____
2)	_____	_____	_____	_____
3)	_____	_____	_____	_____
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

**SUMMARY ANALYSIS**

Regarding non-Indian gambling activity within its borders, Florida has a state-run lottery and 27 licensed pari-mutuel facilities located throughout 19 counties in the state, including 16 greyhound racing tracks, 3 thoroughbred racing tracks, 1 harness racing track, 6 jai alai frontons, and 1 facility permitted to conduct limited intertrack wagering. For pari-mutuel activities, the State maintains a permit-license structure. At this time, there are 9 quarter horse permitholders, none of whom hold a license to race quarter horses.

The bill does the following:

- closes quarter horse “loophole” and subjects quarter horse permitholders to the same permit and licensure requirements as other horse racing permitholders;
- adds thoroughbreds to the list of horse breeds which quarter horse permitholders are allowed to substitute in races without first requiring the consent of other permitholders;
- removes prohibition on intertrack wagering under certain circumstances;
- amends the definition of “full schedule of live racing or games” for quarter horse permit allowing a graduated race schedule and an alternative schedule for quarter horse permitholders conducting live regular wagering performances at their own facilities as well as a minimum event schedule for a quarter horse permitholder leasing another licensed racetrack;
- permits a nonprofit corporation which holds quarter horse permit to conduct live thoroughbred racing, the net proceeds of which must be dedicated to the enhancement of thoroughbred purses and breeders, stallion and special racing awards, the general promotion of the thoroughbred horse breeding industry and the care of retired thoroughbred race horses;
- reduces the annual slot machine license fee from \$3 million to \$2 million;
- replaces the current tax rate on slot machines to twice the revenue sharing rate applicable to the Seminole Tribe as set forth in the Seminole Tribe Gaming Compact; however, an aggregated minimum payment of \$140 million for slot machine tax collections is imposed;
- imposes a requirement that a licensed permitholder must conduct a full schedule of live racing or games in order to obtain an initial cardroom license;
- extends the hours of operation for card rooms from 12 hours to 24 hours; and
- The bill increases the wager limits of \$5 per bet to \$50 per bet and the buy-in for no-limit Texas Hold-em from \$100 to \$1000; additionally, the bill permits the conduct of two celebrity/charity no-limit poker tournaments that are not subject to wager and buy-in limitations, so long as the gross receipts are donated to charity.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Regarding non-Indian gambling activity within its borders, Florida has a state-run lottery and 27 licensed pari-mutuel facilities located throughout 19 counties in the state. There are 16 greyhound racing tracks, 3 thoroughbred racing tracks, 1 harness racing track, 6 jai alai frontons,<sup>1</sup> and 1 facility permitted to conduct limited intertrack wagering.<sup>2</sup> Of these 27 facilities, 21 operate card rooms. Three facilities are licensed to operate Class III slots machines in Broward, although seven facilities are eligible to offer slot machines in Broward and Miami-Dade Counties.

For pari-mutuel activities, the State maintains a permit-license structure. An individual desiring to conduct pari-mutuel operations must first apply for a permit to conduct such activities. Once a permit has been obtained, the permit holder must annually apply for a license to conduct the pari-mutuel activities for which they are permitted, setting forth the number dates and starting times of all pari-mutuel performances.

### QUARTER HORSE PERMITS

#### Present situation

The quarter horse is an American breed of horse that is capable of achieving high speeds for short distances. Florida law directs the Division of Pari-mutuel Wagering (Division) within the Department of Business and Professional Regulation (DBPR) to issue quarter horse racing permits and licenses within certain parameters.

According to the Division, licensed quarter horse racing has not occurred in Florida since 1991 and was so limited then that there are no specific rules that fully apply to an application for a quarter horse permit. Additionally, current law treats quarter horse racing differently than other forms of pari-mutuel operations. For example, they are exempt from:

- Minimum distance requirements between operations;
- Specific application procedures;
- Limitations on transfer, assignment of the permit; and
- Limitations on changes in ownership of the permit.

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<sup>1</sup> Department of business and Professional Regulation, Division of Pari-Mutuel Wagering website:  
<http://www.myflorida.com/dbpr/pmw/index.html>.

<sup>2</sup> See s. 550.6308, Fla. Stat. (2008)

Currently an applicant must demonstrate that the location where the quarter horse permit is to be used is available and that the applicant is able to finance reasonable costs of operation for the first racing year. If a facility has already been built, the applicant must agree to begin holding races within a year. If the applicant plans to build a new facility, the applicant must prove that substantial construction will begin within a year.

In contrast, other pari-mutuel permit applications must include specific information, including the parties involved, financial information and a business plan for the first year of operation.<sup>3</sup> Unlike other new pari-mutuel permits that must be approved by county referendum, new quarter horse permits do not have to be approved by referendum if the facility is located in a county that has already approved another pari-mutuel permit.

Once a quarter horse permit has been issued and, if necessary, approved by local referendum, DBPR issues a license describing the time, number and place of races to be held. The license may be renewed by DBPR on an annual basis by application and proof of compliance and continued eligibility. This is substantially the same licensing procedure for other pari-mutuel permit holders. The division may revoke quarter horse licenses and permits for willful violations of the law and current law specifies revocation of permits for quarter horse permit holders who do not conduct live racing for a period of 18 months, with certain exceptions. For other types of permit holders, the Division may also issue civil penalties.

A quarter horse permit holder who wishes to conduct intertrack wagering<sup>4</sup> must first obtain the written consent of all pari-mutuel permit holders within 50 air miles. Other pari-mutuel permit holders do not have this option as no other pari-mutuel facility may be established within 50 air miles of an existing pari-mutuel facility.<sup>5</sup> A quarter horse permit holder may not substitute thoroughbred racing while a thoroughbred race meet is in progress within 50 air miles or a within 125 air miles of a thoroughbred race meet in progress that is being conducted by a permit holder subject to taxation under s. 550.09515(2)(a), Fla. Stat. The mileage restrictions do not apply to non-wagering permit holders

There are presently nine quarter horse permit holders:

<b><u>PERMITHOLDER</u></b>	<b><u>COUNTY</u></b>
PPI, INC.	BROWARD
GULFSTREAM PARK RACING ASSOCIATION, INC.	BROWARD
TAMPA BAY DOWNS, INC.	HILLSBOROUGH
HAMILTON DOWNS, INC.	HAMILTON
ELH JEFFERSON, LLC	JEFFERSON
GRETNA RACING, LLC	GADSDEN
DEBARY REAL ESTATE HOLDINGS, LLC	VOLUSIA
SOUTH FLORIDA RACING ASSOCIATION, LLC	MIAMI-DADE
OCALA BREEDERS' SALES COMPANY, INC.	MARION

None presently hold licenses to conduct quarter horse races in Florida. Additionally, there are presently three pending applications for quarter horse permits:

<sup>3</sup> See s. 550.054, Fla. Stat. (2008)

<sup>4</sup> Intertrack wagering is the process by which a pari-mutuel permit holder receives broadcasts and accepts wagers on performances conducted at other pari-mutuel facilities by other pari-mutuel permit holders. See § 550.615, Fla. Stat.

<sup>5</sup> Section 550.054, Fla. Stat., does not allow for pari-mutuel permit applications for horseracing, harness horseracing, or greyhound racing to be considered within 100 miles of an existing pari-mutuel facility or for jai alai within 50 miles of an existing facility.

Quarter horse permit holders are not subject to the mileage restrictions found in s. 550.054, Fla. Stat.

<u>APPLICANT NAME</u>	<u>COUNTY</u>
STRICKLAND FARM, INC.	FLAGLER
FT. MYERS REAL ESTATE HOLDING LLC	LEE
SOUTH MARION REAL ESTATE HOLDING, LLC	MARION

Proposed Changes

The bill closes the quarter horse “loophole” and subjects quarter horse permitholders to the same permit and licensure requirements as other horse racing permitholders.

The bill strikes the language related to the special permitting and licensure of quarter horse races and strikes language declaring s. 550.054, Fla. Stat. as inapplicable to quarter horse permitholders.

The bill strikes language prohibiting the substitution of thoroughbreds under certain conditions and circumstances and also adds thoroughbreds to the list of horse breeds which quarter horse permitholders are allowed to substitute in races for up to 50% of races without first requiring the consent of other permitholders.

The bill removes language prohibiting intertrack wagering unless certain conditions are met.

The bill revises the definition of “full schedule of live racing or games” for quarter horse permitholders providing for a graduated increase in racing performances. Specifically, for quarter horse permitholders conducting live regular wagering performances at their own facilities:

- in Fiscal Year 2010-2011, a quarter horse permitholder must conduct at least 20 live regular wagering performances;
- in Fiscal Year 2011-2012 and 2012-2013, a quarter horse permitholder must conduct at least 30 live regular wagering performances;
- In Fiscal Year 2013-2014 and every year thereafter, a quarter horse permitholder must conduct at least 40 live regular wagering performances;
- Except that an alternative schedule of at least 20 live regular wagering performances may be substituted if agreed to by the permitholder and either the Florida Quarterhorse Racing Association or the horsemen’s association representing the majority of the horse owners and trainers at the facility. The agreement must be filed with the Division with its annual date application.

For a quarter horse permitholder leasing another licensed racetrack, the permitholder must conduct at least 160 events at the leased facility.

The bill adds language permitting a nonprofit corporation which holds a quarter horse permit to conduct live thoroughbred racing, the net proceeds of which will be dedicated to the enhancement of thoroughbred purses and breeders, stallion and special racing awards, the general promotion of the thoroughbred horse breeding industry and the care of retired thoroughbred race horses.

**SLOT MACHINES**

Present situation

In 2004, Florida’s voters approved an initiative petition that amended the state constitution to allow Class III slots at pari-mutuels in Broward and Miami-Dade Counties, subject to a final county-level vote of approval in each county.<sup>6</sup> In 2005, Broward County’s voters approved slots for their county, granting the right to offer Class III slots machines at four pari-mutuel facilities: Dania Jai Alai; Gulfstream Park Racing and Casino (thoroughbred racing); The Isle Casino and Racing at Pompano Park (harness racing); and Mardi Gras Race Track and Gaming Center (greyhound racing). However, Miami-Dade voters rejected slots at that time. In 2008, the question was again placed before Miami-Dade and was

<sup>6</sup> Art. X, s. 23, Fla. Const.

approved, granting the right to offer Class III slots machines to three more facilities: Calder Race Course (thoroughbred racing); Miami Jai-Alai; and Flagler Greyhound Track.

Presently, only Gulfstream Park Racing and Casino, The Isle Casino and Racing at Pompano Park, and Mardi Gras Race Track and Gaming Center are licensed and operating slot machines.

A slot machine licensee pays a license fee of \$3 million and a tax rate of 50% on slot machine revenue which is the total cash and property, except nonredeemable credits, received by the slot machine licensee less cash, cash equivalents, credits and prizes paid to winners.

#### Proposed Changes

The bill reduces the slot machine license fee from \$3 million to \$2 million.

The bill replaces the current tax rate on slot machines with a tax rate twice the revenue sharing rate applicable to the Seminole Tribe as set forth in the Gaming Compact. In the HB 7129, the House version of the Seminole Tribe Gaming Compact bill, the revenue sharing rate is set at 18% of net win.

The bill provides a minimum payment of \$140 million for slot machine tax collections. Any shortfall will be assessed at the end of the year as a pro rata share on facilities licensed to operate slot machines.

### **CARD ROOMS**

#### Present Situation

The Division of Pari-mutuel Wagering is the state agency responsible for licensing and regulating cardroom activities. A cardroom may be operated only at the location specified on the cardroom license issued by the Division, and the location may only be where the permitholder is authorized to conduct pari-mutuel wagering activities. To be licensed for a cardroom, one must be a licensed pari-mutuel permitholder; however, to obtain a pari-mutuel license, a permitholder does not have to conduct a full schedule of live racing or games. A cardroom may operate for a maximum of 12 hours a day.

Present law provides for a \$5 maximum wager with a maximum of three raises in any round of betting; however, a card room may offer no-limit Texas Hold-em so long as the buy-in is no more than \$100.

A card room may conduct tournaments subject to the wager and buy-in limitations imposed on other games. For tournament play, gross receipts is defined as the total amount received for all entry fees, player buy-ins, and participation fees less the total amount paid out in prizes.

#### Proposed Changes

The bill requires that a permitholder must be licensed to conduct a full schedule of live racing or games in order to obtain an initial cardroom license.

The bill extends the daily hours of operation for card rooms from 12 hours to 24 hours.

The bill increases the wager limits from \$5 per bet to \$50 per bet and the buy-in for no-limit Texas Hold-em from \$100 to \$1000.

The bill permits the conduct of two celebrity/charity no-limit poker tournaments that are not subject to wager and buy-in limitations, so long as the gross receipts are donated to charity.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 550.002, Fla. Stat.; revises the definition of the term "full schedule of live racing or games" in reference to quarter horse permitholders to provide a graduated and alternative racing schedule.

Section 2. Amends s. 550.334, Fla. Stat.; revises provisions for permits to conduct quarter horse race meetings; removes provisions for application to the Division of Pari-mutuel Wagering for a permit and license to conduct quarter horse race meetings; revises authorization to substitute races of other breeds of horses to include thoroughbred horses; provides an

exception to a prohibition against the transfer or conversion of a quarter horse permit; provides requirements for a quarter horse racing permitholder to be eligible to conduct intertrack wagering and to be eligible to operate a cardroom; removes certain provisions restricting intertrack wagering.

- Section 3. Creates s. 550.3345, Fla. Stat.; provides for the transfer of a quarter horse racing permit to a not-for-profit corporation; provides for membership and purpose of such corporation; provides for conversion of such permit to a limited thoroughbred permit; requires net revenues derived by the not-for-profit corporation to be used for the enhancement of thoroughbred purses and breeders', stallion, and special racing awards, the general promotion of the thoroughbred horse breeding industry, and the care in this State of thoroughbred horses retired from racing; prohibits live thoroughbred racing in certain locations during certain times; provides licensure requirements; providing for a change in location of the permit; prohibits transfer of the converted permit; provides for application of state law to the permit and the corporation; excepts the permitholder from the requirement that the permit escheat to the State for failure to pay tax on handle.
- Section 4. Amends s. 551.106, Fla. Stat.; revises the license fee and tax rate for slot machine licensees; provides for minimum tax revenue from operation of slot machines and method for apportionment of responsibility for payment of shortfall.
- Section 5. Amends s. 849.086, F.S.; revises requirements for initial issuance of a cardroom license to require a full schedule of live racing or games during the initial year of cardroom licensure; permits cardroom operators to operate 24 hours per day; increases the wager and buy-in limits; permits charity tournaments under certain conditions.
- Section 6. Provides an effective date of July 1, 2009 except that Section 4 becomes effective on the date the Legislature ratifies the gaming compact between the Seminole Tribe of Florida and the State and when such compact is approved or deemed approved by the Secretary of the United States Department of the Interior as evidenced by publication in the Federal Register.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating Conference has estimated the fiscal impact as indicated below:

	2009-10							
	General Revenue		State Trust		Local		Total	
	Cash	Recurr	Cash	Recurr	Cash	Recurr	Cash	Recurr
Quarter-horse permit conversion	0.0	0.8	0.0	0.0	0.0	0.0	0.0	0.8
Cardrooms: increased hours	2.2	2.2	0.0	0.0	0.0	0.0	2.2	2.2
Cardrooms: increased betting limits	4.3	4.3	0.0	0.0	0.0	0.0	4.3	4.3
Slots: Annual License fee - \$2.0 million	(6.0)	(6.0)	0.0	0.0	0.0	0.0	(6.0)	(6.0)
Slots: tax rate twice revenue share rate in Indian compact	0.0	0.0	(18.6)	**/	0.0	0.0	(18.6)	**
<b>Net Impact</b>	<b>0.5</b>	<b>1.3</b>	<b>(18.6)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>(18.1)</b>	<b>1.3</b>

<sup>7</sup> Indeterminate.

2010-11								
	General Revenue		State Trust		Local		Total	
	Cash	Recurr	Cash	Recurr	Cash	Recurr	Cash	Recurr
Quarter-horse permit conversion	0.0	0.8	0.0	0.0	0.0	0.0	0.0	0.8
Cardrooms: increased hours	2.3	2.3	0.0	0.0	0.0	0.0	2.3	2.3
Cardrooms: increased betting limits	4.7	4.7	0.0	0.0	0.0	0.0	4.7	4.7
Slots: Annual License fee - \$2.0 million	(6.0)	(6.0)	0.0	0.0	0.0	0.0	(6.0)	(6.0)
Slots: tax rate twice revenue share rate in Indian compact	0.0	0.0	13.2	** <sup>8</sup>	0.0	0.0	(18.6)	**
<b>Net Impact</b>	<b>1.8</b>	<b>1.8</b>	<b>13.2</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>15.0</b>	<b>1.8</b>

The state trust fund impacted is the Education Enhancement Trust Fund. The Revenue Estimating Conference estimated next year's tax collections at \$132.9 million. Although the bill requires a minimum aggregate tax of \$140 million, the first year impact reflects that any tax shortfall will not be "trued up" until the following fiscal year.

2. Expenditures:  
None anticipated.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
The bill has no direct impact on local government revenues.

2. Expenditures:  
The bill has no direct impact on local government expenditures.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

According to committee testimony, lowering the tax rate will have a beneficial impact on the industry and increase it's ability to be competitive.

**D. FISCAL COMMENTS:**

See above.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:
  
2. Other:

<sup>8</sup> Indeterminate.

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**