

Florida Statutes

TITLE IV. EXECUTIVE BRANCH

CHAPTER 16. ATTORNEY GENERAL

16.56 Office of Statewide Prosecution.--

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a

separate "budget entity" as that term is defined in chapter 216. The office may:

(a) Investigate and prosecute the offenses of:

1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, and home-invasion robbery;

2. Any crime involving narcotic or other dangerous drugs;

3. Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

4. Any violation of the provisions of the Florida Anti-Fencing Act;

5. Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;

6. Any crime involving, or resulting in, fraud or deceit upon any person; or

7. Any violation of s. 847.0135, relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135,

or any attempt, solicitation, or conspiracy to commit any of the crimes specifically enumerated above. The office shall

have such power only when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits.

(b) Upon request, cooperate with and assist state attorneys and state and local law enforcement officials in their efforts against organized crimes.

(c) Request and receive from any department, division, board, bureau, commission, or other agency of the state, or of any political subdivision thereof, cooperation and assistance in the performance of its duties.

(2) The Attorney General shall appoint a statewide prosecutor from not less than three persons nominated by the judicial nominating commission for the Supreme Court. The statewide prosecutor shall be in charge of the Office of Statewide Prosecution for a term of 4 years to run concurrently with the term of the appointing official. The statewide prosecutor shall be an elector of the state, shall have been a member of The Florida Bar for the preceding 5 years, and shall devote full time to the duties of statewide prosecutor and not engage in the private practice of law. The Attorney General may remove the statewide prosecutor prior to the end of his or her term. A vacancy in the position of statewide prosecutor shall be filled within 60 days. During the period of any vacancy, the Attorney General shall exercise all the powers and perform all the duties of the statewide prosecutor. A person appointed statewide prosecutor is prohibited from running for or accepting appointment to any state office for a period of 2 years following vacation of office. The statewide prosecutor shall on March 1 of each year report in writing to the Governor and the Attorney General on the activities of the office for the preceding year and on the goals and objectives for the next year.

(3) The statewide prosecutor may conduct hearings at any place in the state; summon and examine witnesses; require the production of physical evidence; sign informations, indictments, and other official documents; confer immunity; move the court to reduce the sentence of a person convicted of drug trafficking who provides substantial assistance; attend to and serve as the legal adviser to the statewide grand jury; and exercise such other powers as by law are granted to state attorneys. The statewide prosecutor may designate one or more assistants to exercise any such powers.

(4) It is the intent of the Legislature that in carrying out the duties of this office, the statewide prosecutor shall, whenever feasible, use sworn investigators employed by the Department of Law Enforcement, and may request the assistance, where appropriate, of sworn investigators employed by other law enforcement agencies.

History.--ss. 1, 9, ch. 85-179; s. 1, ch. 90-12; s. 1, ch. 92-108; s. 4, ch. 93-212; s. 51, ch. 95-147; s. 5, ch. 95-427; s. 8, ch. 96-252; s. 6, ch. 96-260; s. 69, ch. 96-388; s. 3, ch. 97-78.

CHAPTER 24. STATE LOTTERIES

24.102 Purpose and intent.--

(1) The purpose of this act is to implement s. 15, Art. X of the State Constitution in a manner that enables the people of the state to benefit from significant additional moneys for education and also enables the people of the state to play the best lottery games available.

(2) The intent of the Legislature is:

(a) That the net proceeds of lottery games conducted pursuant to this act be used to support improvements in public education and that such proceeds not be used as a substitute for existing resources for public education.

(b) That the lottery games be operated by a department of state government that functions as much as possible in the manner of an entrepreneurial business enterprise. The Legislature recognizes that the operation of a lottery is a unique activity for state government and that structures and procedures appropriate to the performance of other governmental functions are not necessarily appropriate to the operation of a state lottery.

(c) That the lottery games be operated by a self-supporting, revenue-producing department.

(d) That the department be accountable to the Legislature and the people of the state through a system of audits and reports and through compliance with financial disclosure, open meetings, and public records laws.

History.--s. 2, ch. 87-65; s. 5, ch. 91-45.

24.103 Definitions.--As used in this act:

(1) "Department" means the Department of the Lottery.

(2) "Secretary" means the secretary of the department.

(3) "Commission" means the State Lottery Commission.

(4) "Person" means any individual, firm, association, joint adventure, partnership, estate, trust, syndicate, fiduciary, corporation, or other group or combination and shall include any agency or political subdivision of the state.

(5) "Major procurement" means a procurement for a contract for the printing of tickets for use in any lottery game, consultation services for the startup of the lottery, any goods or services involving the official recording for lottery game play purposes of a player's selections in any lottery game involving player selections, any goods or services involving the receiving of a player's selection directly from a player in any lottery game involving player selections, any goods or services involving the drawing, determination, or generation of winners in any lottery game, the security report services provided for in this act, or any goods and services relating to marketing and promotion which exceed a value of \$25,000.

(6) "Retailer" means a person who sells lottery tickets on behalf of the department pursuant to a contract.

(7) "Vendor" means a person who provides or proposes to provide goods or services to the department, but does not include an employee of the department, a retailer, or a state agency.

History.--s. 3, ch. 87-65; s. 1, ch. 89-208.

24.111 Vendors; disclosure and contract requirements.--

(1) The department may enter into contracts for the purchase, lease, or lease-purchase of such goods or services

as are necessary for effectuating the purposes of this act. The department may not contract with any person or entity

for the total operation and administration of the state lottery established by this act but may make procurements which

integrate functions such as lottery game design, supply of goods and services, and advertising. In all procurement

decisions, the department shall take into account the particularly sensitive nature of the state lottery and shall consider

the competence, quality of product, experience, and timely performance of the vendors in order to promote and

ensure security, honesty, fairness, and integrity in the operation and administration of the lottery and the objective of

raising net revenues for the benefit of the public purpose described in this act.

(2) The department shall investigate the financial responsibility, security, and integrity of each vendor with which it

intends to negotiate a contract for major procurement. Such investigation may include an investigation of the financial

responsibility, security, and integrity of any or all persons whose names and addresses are required to be disclosed

pursuant to paragraph (a). Any person who submits a bid, proposal, or offer as part of a major procurement must, at

the time of submitting such bid, proposal, or offer, provide the following:

(a) A disclosure of the vendor's name and address and, as applicable, the name and address and any additional

disclosures necessary for an investigation of the financial responsibility, security, and integrity of the following:

1. If the vendor is a corporation, the officers, directors, and each stockholder in such corporation; except that, in

the case of owners of equity securities of a publicly traded corporation, only the names and addresses of those

known to the corporation to own beneficially 5 percent or more of such securities need be disclosed.

2. If the vendor is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

3. If the vendor is an association, the members, officers, and directors.

4. If the vendor is a partnership or joint venture, all of the general partners, limited partners, or joint venturers.

If the vendor subcontracts any substantial portion of the work to be performed to a subcontractor, the vendor shall disclose all of the information required by this paragraph for the subcontractor as if the subcontractor were itself a vendor.

(b) A disclosure of all the states and jurisdictions in which the vendor does business and of the nature of that business for each such state or jurisdiction.

(c) A disclosure of all the states and jurisdictions in which the vendor has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services, and of the nature of the goods or services involved for each such state or jurisdiction.

(d) A disclosure of all the states and jurisdictions in which the vendor has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked a gaming license or contract of any kind and of the disposition of such in each such state or jurisdiction. If any gaming license or contract has been revoked or has not been renewed or any gaming license or contract application has been either denied or is pending and has remained pending for more than 6 months, all of the facts and circumstances underlying this failure to receive such a license must be disclosed.

(e) A disclosure of the details of any conviction or judgment of a state or federal court of the vendor of any felony or any other criminal offense other than a traffic violation.

(f) A disclosure of the details of any bankruptcy, insolvency, reorganization, or any pending litigation of the vendor.

(g) Such additional disclosures and information as the department may determine to be appropriate for the procurement involved.

(h) The department shall lease all instant ticket vending machines.

(i) The department will require a performance bond for the duration of the contract.

The department shall not contract with any vendor who fails to make the disclosures required by this subsection, and any contract with a vendor who has failed to make the required disclosures shall be unenforceable. Any contract with any vendor who does not comply with such requirements for periodically updating such disclosures during the tenure of such contract as may be specified in such contract may be terminated by the department. This subsection shall be

construed broadly and liberally to achieve the ends of full disclosure of all information necessary to allow for a full and complete evaluation by the department of the competence, integrity, background, and character of vendors for major procurements.

(3) The department may require disclosure of the information required by subsection (2) from any vendor if the department finds that such disclosure is necessary to protect the dignity and integrity of the lottery and in the best interests of the state.

(4) No contract for a major procurement with any vendor shall be entered into if that vendor, or any of the vendor's officers, directors, trustees, partners, or joint venturers whose names and addresses are required to be disclosed pursuant to paragraph (2)(a), has been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed in the preceding 10 years, regardless of adjudication, unless the department determines that:

(a) The vendor or such individual has been pardoned or the vendor's or such individual's civil rights have been restored;

(b) Subsequent to such conviction or entry of plea the vendor or such individual has engaged in the kind of law-abiding commerce and good citizenship that would reflect well upon the integrity of the lottery; or

(c) If the vendor is not an individual, such vendor has terminated its relationship with the individual whose actions directly contributed to the vendor's conviction or entry of plea.

(5) Each vendor in a major procurement in excess of \$25,000, and any other vendor if the department deems it necessary to protect the state's financial interest, shall, at the time of executing the contract with the department, post an appropriate bond with the department in an amount determined by the department to be adequate to protect the state's interests, but not higher than the full amount estimated to be paid annually to the vendor under the contract. In lieu of the bond, a vendor may, to assure the faithful performance of its obligations, file with the department an irrevocable letter of credit acceptable to the department in an amount determined by the department to be adequate to protect the state's interests or deposit and maintain with the Treasurer securities that are interest bearing or accruing and that, with the exception of those specified in paragraphs (a) and (b), are rated in one of the four highest classifications by an established nationally recognized investment rating service. Securities eligible under this subsection shall be limited to:

(a) Certificates of deposit issued by solvent banks or savings associations organized and existing under the laws of this state or under the laws of the United States and having their principal place of business in this state.

(b) United States bonds, notes, and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest.

(c) General obligation bonds and notes of any political subdivision of the state.

(d) Corporate bonds of any corporation that is not an affiliate or subsidiary of the depositor.

Such securities shall be held in trust and shall have at all times a market value at least equal to an amount determined

by the department to be adequate to protect the state's interests, which amount shall not be set higher than the full

amount estimated to be paid annually to the vendor under contract.

(6) Every contract in excess of \$25,000 entered into by the department pursuant to this section shall contain a

provision for payment of liquidated damages to the department for any breach of contract by the vendor.

The

department may require a liquidated damages provision in any contract if the department deems it necessary to

protect the state's financial interest.

(7) Each vendor shall be qualified to do business in this state and shall file appropriate tax returns as provided by

the laws of this state, and all contracts shall be governed by the laws of this state.

History.--s. 11, ch. 87-65; s. 3, ch. 88-374; s. 3, ch. 89-208; s. 6, ch. 96-341; s. 2, ch. 98-230.

TITLE XIX. PUBLIC BUSINESS

CHAPTER 285. INDIAN RESERVATIONS AND AFFAIRS

285.18 Tribal council as governing body; powers and duties.--

(1) The respective governing bodies of the Seminole Tribe of Florida and the Miccosukee Tribe of Indians

recognized by the United States and organized pursuant to the provisions of the Act of June 18, 1934, 48 Stat. 987,

25 U.S.C. s. 476 shall be the respective governing bodies of the special improvement districts created by s. 285.17.

(2) The governing bodies of the special improvement districts shall have the duty and power:

(a) To plan, contract for, and implement programs for the benefit of their members in law enforcement, education,

housing, health care, and other social services, which shall include, without limitation, delivery of health services,

workforce training, child services, and other programs to improve the health, economic, and educational opportunities

of its members.

(b) To contract with the district school board of any district adjoining the local school district, when deemed necessary by the tribal council, to provide public education and educational programs for their members, notwithstanding the provisions of s. 230.23 that authorize school boards to establish attendance areas for their districts or approve plans for attendance in other districts.

(c) To employ personnel to exercise law enforcement powers, including the investigation of violations of any of the criminal laws of the state occurring on reservations over which the state has assumed jurisdiction pursuant to s. 285.16.

1. All law enforcement personnel employed shall be considered peace officers for all purposes and shall have the authority to bear arms, make arrests, and apply for, serve, and execute search warrants, arrest warrants, capias, and other process of the court, and to enforce criminal and noncriminal traffic offenses, within their respective special improvement districts.

2. All law enforcement personnel shall be entitled to the privileges, protection, and benefits of ss. 112.19 and 870.05.

(d) To employ such personnel as necessary to carry out the responsibilities of the special improvement districts and to prescribe all terms and conditions for the employment of such personnel, including, but not limited to, the fixing of their compensation, benefits, the filing of performance and fidelity bonds, and such policies of insurance as they may deem advisable, and apply for coverage of their employees under the state retirement system subject to necessary action by the districts to pay employer contributions into the state retirement fund. However, any law enforcement officer employed must meet the standards required pursuant to ss. 943.085-943.25.

(e) To execute any and all instruments, and do and perform any and all acts for things necessary, convenient, or desirable for its purposes or to carry out the powers expressly given in this section.

(f) To borrow money, accept gifts, and apply for and use grants or loans of money or other property from the United States, the state, a local unit of government or any person, for any district purpose and may enter into agreements required in connection therewith, and may hold, use, and dispose of such moneys or property in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(3) The law enforcement agencies of the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida shall have the authority of "criminal justice agencies" as defined in s. 943.045(10)(c) and shall have the specific authority to negotiate agreements with the Florida Department of Law Enforcement, the United States

Department of Justice, and other federal law enforcement agencies for access to criminal history records for the purpose of conducting ongoing criminal investigations and for the following governmental purposes:

(a) Background investigations, which are required for employment by a tribal education program, tribal Head Start program, or tribal day care program as may be required by state or federal law.

(b) Background investigations, which are required for employment by tribal law enforcement agencies.

(c) Background investigations, which are required for employment by a tribal government.

(d) Background investigations with respect to all employees, primary management officials, and all persons having a financial interest in a class II Indian tribal gaming enterprise to ensure eligibility as provided in the Indian Gaming Regulatory Act, 25 U.S.C. ss. 2701 et al.

With regard to those investigations authorized in paragraphs (a), (c), and (d), each such individual shall file a complete set of his or her fingerprints that have been taken by an authorized law enforcement officer, which set of fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. The cost of processing shall be borne by the applicant.

History.--s. 1, ch. 74-175; s. 10, ch. 83-167; s. 1, ch. 89-58; s. 1, ch. 89-330; s. 4, ch. 94-215; s. 866, ch. 95-148.

TITLE XXVI. PUBLIC TRANSPORTATION

CHAPTER 338. FLORIDA INTRASTATE HIGHWAY SYSTEM AND TOLL FACILITIES

338.234 Granting concessions or selling along the turnpike system.--

(1) The department may grant concessions or sell services or products along the turnpike system which benefit the traveling public. Services and products authorized include, but are not limited to, the sale of motor fuel, towing and maintenance services; the sale of food with attendant nonalcoholic beverages; the sale of state lottery tickets by authorized retailers; the granting of concessions for amusement devices which operate by the application of skill, not including games of chance as defined in s. 849.16 or other illegal gambling games; the sale of Florida citrus, goods promoting the state or handmade goods produced within the state; the granting of concessions for equipment which provides travel information or tickets, reservations, or other related services; and the granting of concessions which provide banking and other business services. The department may also provide information centers on the plazas for

the benefit of the public.

(2) The department may provide an opportunity for governmental agencies to hold public events at turnpike plazas which educate the traveling public as to safety, travel, and tourism.

History.--s. 4, ch. 28128, 1953; s. 1, ch. 59-69; s. 1, ch. 65-469; s. 8, ch. 67-359; ss. 23, 29, 35, ch. 69-106; s. 99, ch. 73-333; s. 1, ch. 81-116; s. 191, ch. 84-309; s. 11, ch. 88-286; s. 7, ch. 89-208; s. 6, ch. 94-237.

Note.--Former ss. 340.04, 340.011(2)(b)-(d), 340.091.

TITLE XXXII. REGULATION OF PROFESSIONS AND OCCUPATIONS

CHAPTER 468. MISCELLANEOUS PROFESSIONS AND OCCUPATIONS

PART VII. TALENT AGENCIES

468.402 Duties of the department; authority to issue and revoke license; adoption of rules.--

(1) The department may take any one or more of the actions specified in subsection (5) against any person who has:

- (a) Obtained or attempted to obtain any license by means of fraud, misrepresentation, or concealment.
- (b) Violated any provision of this part, part I of chapter 455, any lawful disciplinary order of the department, or any rule of the department.
- (c) Been found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime involving moral turpitude or dishonest dealings under the laws of this state or any other state or government.
- (d) Made, printed, published, distributed, or caused, authorized, or knowingly permitted the making, printing, publication, or distribution of any false statement, description, or promise of such a character as to reasonably induce any person to act to his or her damage or injury, if such statement, description, or promises were purported to be performed by the talent agency and if the owner or operator then knew, or by the exercise of reasonable care and inquiry, could have known, of the falsity of the statement, description, or promise.
- (e) Knowingly committed or been a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the work, representation, or conduct of the talent agency acts or has acted to his or her injury or damage.

(f) Failed or refused upon demand to disclose any information, as required by this part, within his or her knowledge, or failed or refused to produce any document, book, or record in his or her possession for inspection to the department or any authorized agent thereof acting within its jurisdiction or by authority of law.

(g) Established the talent agency within any place where intoxicating liquors are sold, any place where gambling is permitted, or any house of prostitution.

(h) Charged, collected, or received compensation for any service performed by the talent agency greater than specified in its schedule of maximum fees, charges, and commissions previously filed with the department.

(i) Had a license to operate a talent agency revoked, suspended, or otherwise acted against, including, but not limited to, having been denied a license for good cause by the licensing authority of another state, territory, or country.

(j) Willfully made or filed a report or record that the licensee knew to be false, failed to file a report or record required by state or federal law, impeded or obstructed such filing, or induced another person to impede or obstruct such filing. Such reports or records shall include only those that are signed in the licensee's capacity as a licensed talent agency.

(k) Advertised goods or services in a manner that was fraudulent, false, deceptive, or misleading in form or content.

(l) Advertised, operated, or attempted to operate under a name other than the name appearing on the license.

(m) Been found guilty of fraud or deceit in the operation of a talent agency.

(n) Operated with a revoked, suspended, inactive, or delinquent license.

(o) Permitted, aided, assisted, procured, or advised any unlicensed person to operate a talent agency contrary to this part or to a rule of the department.

(p) Failed to perform any statutory or legal obligation placed on a licensed talent agency.

(q) Practiced or offered to practice beyond the scope permitted by law or has accepted and performed professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform.

(r) Conspired with another licensee or with any other person to commit an act, or has committed an act, that would tend to coerce, intimidate, or preclude another licensee from advertising his or her services.

(s) Solicited business, either personally or through an agent or through any other person, through the use of fraud or deception or by other means; through the use of misleading statements; or through the exercise of intimidation or undue influence.

(t) Exercised undue influence on the artist in such a manner as to exploit the artist for financial gain of the licensee or a third party, which includes, but is not limited to, the promoting or selling of services to the artist.

(2) The department may revoke any license that is issued as a result of the mistake or inadvertence of the department.

(3) The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part.

(4) A revoked or suspended license must be returned to the department within 7 days after the time for appeal has elapsed.

(5) Upon a finding of a violation of any one or more of the grounds enumerated in subsection (1) or any other section of this part, the department may take the following actions:

- (a) Deny an application for licensure as a talent agency.
- (b) Permanently revoke or suspend the license of a talent agency.
- (c) Impose an administrative fine, not to exceed \$5,000, for each count or separate offense.
- (d) Require restitution.
- (e) Issue a public reprimand.
- (f) Place the licensee on probation, subject to such conditions as the department may specify.

(6) A person shall be subject to the disciplinary actions specified in subsection (5) for violations of subsection (1) by that person's agents or employees in the course of their employment with that person.

(7) The department may deny a license if any owner or operator listed on the application has been associated with a talent agency whose license has been revoked or otherwise disciplined.

History.--ss. 2, 15, ch. 86-292; s. 63, ch. 91-137; s. 13, ch. 91-156; s. 23, ch. 91-220; s. 4, ch. 91-429; s. 21, ch. 94-119; s. 306, ch. 97-103; s. 86, ch. 98-166; s. 135, ch. 98-200.

TITLE XXXIII. REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS

CHAPTER 509. LODGING AND FOOD SERVICE ESTABLISHMENTS; MEMBERSHIP CAMPGROUNDS

PART I. PUBLIC LODGING AND PUBLIC FOOD SERVICE ESTABLISHMENTS

509.261 Revocation or suspension of licenses; fines; procedure.--

(1) Any public lodging establishment or public food service establishment that has operated or is operating in violation of this chapter or the rules of the division, operating without a license, or operating with a suspended or revoked license may be subject by the division to:

(a) Fines not to exceed \$1,000 per offense;

(b) Mandatory attendance, at personal expense, at an educational program sponsored by the Hospitality Education Program; and

(c) The suspension, revocation, or refusal of a license issued pursuant to this chapter.

(2) For the purposes of this section, the division may regard as a separate offense each day or portion of a day on which an establishment is operated in violation of a "critical law or rule," as that term is defined by rule.

(3) The division shall post a prominent closed-for-operation sign on any public lodging establishment or public food service establishment, the license of which has been suspended or revoked. The division shall also post such sign on any establishment judicially or administratively determined to be operating without a license. It is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for any person to deface or remove such closed-for-operation sign or for any public lodging establishment or public food service establishment to open for operation without a license or to open for operation while its license is suspended or revoked. The division may impose administrative sanctions for violations of this section.

(4) All funds received by the division as satisfaction for administrative fines shall be paid into the State Treasury to the credit of the Hotel and Restaurant Trust Fund and may not subsequently be used for payment to any entity performing required inspections under contract with the division.

(5)(a) A license may not be suspended under this section for a period of more than 12 months. At the end of such period of suspension, the establishment may apply for reinstatement or renewal of the license. A public lodging

establishment or public food service establishment, the license of which is revoked, may not apply for another license for that location prior to the date on which the revoked license would have expired.

(b) The division may fine, suspend, or revoke the license of any public lodging establishment or public food service establishment if the operator knowingly lets, leases, or gives space for unlawful gambling purposes or permits unlawful gambling in such establishment or in or upon any premises which are used in connection with, and are under the same charge, control, or management as, such establishment.

(6) The division may fine, suspend, or revoke the license of any public lodging establishment or public food service establishment when:

(a) Any person with a direct financial interest in the licensed establishment, within the preceding 5 years in this state, any other state, or the United States, has been adjudicated guilty of or forfeited a bond when charged with soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in controlled substances as defined in chapter 893, or any other crime reflecting on professional character.

(b) Such establishment has been deemed an imminent danger to the public health and safety by the division or local health authority for failure to meet sanitation standards or the premises have been determined by the division or local authority to be unsafe or unfit for human occupancy.

(7) A person is not entitled to the issuance of a license for any public lodging establishment or public food service establishment except in the discretion of the director when the division has notified the current licenseholder for such premises that administrative proceedings have been or will be brought against such current licensee for violation of any provision of this chapter or rule of the division.

History.--s. 48, ch. 16042, 1933; CGL 1936 Supp. 3355(2); s. 1, ch. 21660, 1943; s. 2, ch. 23930, 1947; ss. 1-5, ch. 26939, 1951; s. 1, ch. 28224, 1953; s. 1, ch. 29823, 1955; s. 10, ch. 57-389; s. 40, ch. 63-512; s. 1, ch. 63-69; s. 1, ch. 63-68; s. 1, ch. 63-70; ss. 16, 35, ch. 69-106; s. 192, ch. 71-377; s. 20, ch. 73-325; s. 3, ch. 76-168; s. 188, ch. 77-104; s. 1, ch. 77-457; s. 9, ch. 78-95; ss. 21, 39, 42, ch. 79-240; ss. 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 1, 4, ch. 82-84; ss. 28, 51, 52, ch. 90-339; s. 4, ch. 91-429; s. 11, ch. 93-53; s. 48, ch. 95-144.

Note.--Former ss. 511.05, 511.051.

CHAPTER 550. PARI-MUTUEL WAGERING

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

- (1) "Breaks" means the portion of a pari-mutuel pool which is computed by rounding down to the nearest multiple of 10 cents and is not distributed to the contributors or withheld by the permitholder as takeout.
- (2) "Breeders' and stallions' awards" means financial incentives paid to encourage the agricultural industry of breeding racehorses in this state.
- (3) "Broadcast" means the broadcast, transmission, simulcast, or exhibition in any medium or manner by means that may include, but are not limited to, community antenna systems that receive and retransmit television or radio signals by wire, cable, or otherwise to television or radio sets, and cable origination networks or programmers that transmit programming to community antenna televisions or closed-circuit systems by wire, cable, satellite, or otherwise.
- (4) "Contributor" means a person who contributes to a pari-mutuel pool by engaging in any pari-mutuel wager pursuant to this chapter.
- (5) "Current meet" or "current race meet" means the conduct of racing or games pursuant to a current year's operating license issued by the division.
- (6) "Department" means the Department of Business and Professional Regulation.
- (7) "Division" means the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation.
- (8) "Event" means a single contest, race, or game within a performance.
- (9) "Exotic pools" means wagering pools, other than the traditional win, place, or show (1st, 2nd, or 3rd place) pools, into which a contributor can place a wager on more than one entry or on more than one race or game in the same bet and which includes, but is not limited to, daily doubles, perfectas, quinielas, quiniela daily doubles, exactas, trifectas, and Big Q pools.
- (10) "Fronton" means a building or enclosure that contains a playing court with three walls designed and constructed for playing the sport of jai alai or pelota.
- (11) "Full schedule of live racing or games" means, for a greyhound or jai alai permitholder, the conduct of a combination of at least 100 live evening or matinee performances during the preceding year; for a permitholder who has a converted permit or filed an application on or before June 1, 1990, for a converted permit, the conduct of a combination of at least 100 live evening and matinee wagering performances during either of the 2 preceding years; for a harness permitholder, the conduct of at least 100 live regular wagering performances during the preceding year;

for a quarter horse permitholder, the conduct of at least 40 live regular wagering performances during the preceding year; and for a thoroughbred permitholder, the conduct of at least 40 live regular wagering performances during the preceding year. For a permitholder which is restricted by statute to certain operating periods within the year when other members of its same class of permit are authorized to operate throughout the year, the specified number of live performances which constitute a full schedule of live racing or games shall be adjusted pro rata in accordance with the relationship between its authorized operating period and the full calendar year and the resulting specified number of live performances shall constitute the full schedule of live games for such permitholder and all other permitholders of the same class within 100 air miles of such permitholder. A live performance must consist of no fewer than eight races or games conducted live for each of a minimum of three performances each week at the permitholder's licensed facility under a single admission charge.

(12) "Guest track" means a track or fronton receiving or accepting an intertrack wager.

(13) "Handle" means the aggregate contributions to pari-mutuel pools.

(14) "Harness racing" means a type of horseracing which is limited to standardbred horses using a pacing or trotting gait in which each horse pulls a two-wheeled cart called a sulky guided by a driver.

(15) "Horserace permitholder" means any thoroughbred entity permitted under the provisions of this chapter to conduct pari-mutuel wagering meets of thoroughbred racing; any harness entity permitted under this chapter to conduct pari-mutuel wagering meets of harness racing; or any quarter horse entity permitted under this chapter to conduct pari-mutuel wagering meets of quarter horse racing.

(16) "Host track" means a track or fronton conducting a live or simulcast race or game that is the subject of an intertrack wager.

(17) "Intertrack wager" means a particular form of pari-mutuel wagering in which wagers are accepted at a permitted, in-state track, fronton, or pari-mutuel facility on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel facility.

(18) "Jai alai" or "pelota" means a ball game of Spanish origin played on a court with three walls.

(19) "Market area" means an area within 25 miles of a permitholder's track or fronton.

(20) "Meet" or "meeting" means the conduct of live racing or jai alai for any stake, purse, prize, or premium.

(21) "Operating day" means a continuous period of 24 hours starting with the beginning of the first performance of

a race or game, even though the operating day may start during one calendar day and extend past midnight except that no greyhound race or jai alai game may commence after 1:30 a.m.

(22) "Pari-mutuel" means 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.

(23) "Pari-mutuel facility" means a racetrack, fronton, or other facility used by a permitholder for the conduct of pari-mutuel wagering.

(24) "Pari-mutuel wagering pool" means the total amount wagered on a race or game for a single possible result.

(25) "Performance" means a series of events, races, or games performed consecutively under a single admission charge.

(26) "Post time" means the time set for the arrival at the starting point of the horses or greyhounds in a race or the beginning of a game in jai alai.

(27) "Purse" means the cash portion of the prize for which a race or game is contested.

(28) "Quarter horse" means a breed of horse developed in the western United States which is capable of high speed for a short distance and used in quarter horse racing registered with the American Quarter Horse Association.

(29) "Racing greyhound" means a greyhound that is or was used, or is being bred, raised, or trained to be used, in racing at a pari-mutuel facility and is registered with the National Greyhound Association.

(30) "Regular wagering" means contributions to pari-mutuel pools involving wagering on a single entry in a single race, or a single jai alai player or team in a single game, such as the win pool, the place pool, or the show pool.

(31) "Same class of race or permit" means, with respect to a jai alai permitholder, jai alai games or other jai alai permitholders; with respect to a greyhound permitholder, greyhound races or other greyhound permitholders; with respect to a thoroughbred permitholder, thoroughbred races or other thoroughbred permitholders; with respect to a harness permitholder, harness races or other harness permitholders; with respect to a quarter horse permitholder, quarter horse races or other quarter horse permitholders.

(32) "Simulcasting" means broadcasting events occurring live at an in-state location to an out-of-state location, or receiving at an in-state location events occurring live at an out-of-state location, by the transmittal, retransmittal,

reception, and rebroadcast of television or radio signals by wire, cable, satellite, microwave, or other electrical or electronic means for receiving or rebroadcasting the events.

(33) "Standardbred horse" means a pacing or trotting horse that is used in harness racing and that has been registered as a standardbred by the United States Trotting Association or by a foreign registry whose stud book is recognized by the United States Trotting Association.

(34) "Takeout" means the percentage of the pari-mutuel pools deducted by the permitholder prior to the distribution of the pool.

(35) "Thoroughbred" means a purebred horse whose ancestry can be traced back to one of three foundation sires and whose pedigree is registered in the American Stud Book or in a foreign stud book that is recognized by the Jockey Club and the International Stud Book Committee.

(36) "Totalisator" means the computer system used to accumulate wagers, record sales, calculate payoffs, and display wagering data on a display device that is located at a pari-mutuel facility.

(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.

(38) "Year," for purposes of determining a full schedule of live racing, means calendar year.

(39) "Net pool pricing" means a method of calculating prices awarded to winning wagers relative to the contribution, net of takeouts, to a pool by each participating jurisdiction or, as applicable, site.

History.--s. 3, ch. 92-348; s. 206, ch. 94-218; s. 1, ch. 94-328; s. 1, ch. 95-390; s. 1, ch. 96-364.

550.0115 Permitholder license.--

After a permit has been issued by the division, and after the permit has been approved by election, the division shall issue to the permitholder an annual license to conduct pari-mutuel operations at the location specified in the permit pursuant to the provisions of this chapter.

History.--s. 4, ch. 92-348.

550.01215 License application; periods of operation; bond, conversion of permit.--

(1) Each permitholder shall annually, during the period between December 15 and January 4, file in writing with the division its application for a license to conduct performances during the next state fiscal year. Each application

shall specify the number, dates, and starting times of all performances which the permitholder intends to conduct. It

shall also specify which performances will be conducted as charity or scholarship performances. In addition, each

application for a license shall include, for each permitholder which elects to operate a cardroom, the dates and

periods of operation the permitholder intends to operate the cardroom or, for each thoroughbred permitholder which

elects to receive or rebroadcast out-of-state races after 7 p.m., the dates for all performances which the permitholder

intends to conduct. Permitholders shall be entitled to amend their applications through February 28.

(2) Notwithstanding any other provision of this chapter, any permitholder located as specified in s. 550.615(6)

may, between August 1, 1996, and August 15, 1996, make a one-time request to the division and shall be granted a

reduction in its authorized performances conducted during the 1996-1997 state fiscal year not to exceed 15

performances. In the absence of a request by a permitholder between August 1, 1996, and August 15, 1996, the

division shall have the authority to reduce a permitholder's authorized performances conducted during the 1996-1997

state fiscal year pursuant to a court order issued prior to January 1, 1997.

(3) Notwithstanding any other provision of this section, any greyhound permitholder located as specified in s.

550.615(6), may apply for a license to conduct racing for fiscal year 1996-1997 within 10 days after the effective

date of this act. The division shall issue such license within 15 days of receipt of such application. In addition, any

other greyhound permitholders located in such area, may within the same 10-day time period, request corresponding

reductions in their authorized number of performances, and the division shall grant such amendments.

(4) After the first license has been issued to a permitholder, all subsequent annual applications for a license shall be

accompanied by proof, in such form as the division may by rule require, that the permitholder continues to possess

the qualifications prescribed by this chapter, and that the permit has not been disapproved at a later election.

(5) Except as provided in s. 550.5251 for thoroughbred racing, the division shall issue each license no later than

March 15. Each permitholder shall operate all performances at the date and time specified on its license. The division

shall have the authority to approve minor changes in racing dates after a license has been issued. The division may

approve changes in racing dates after a license has been issued when there is no objection from any operating

permitholder located within 50 miles of the permitholder requesting the changes in operating dates. In the event of an

objection, the division shall approve or disapprove the change in operating dates based upon the impact on operating

permitholders located within 50 miles of the permitholder requesting the change in operating dates. In making the

determination to change racing dates, the division shall take into consideration the impact of such changes on state revenues.

(6) In the event that a permit holder fails to operate all performances specified on its license at the date and time specified, the division shall hold a hearing to determine whether to fine or suspend the permit holder's license, unless such failure was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permit holder to control. Financial hardship to the permit holder shall not, in and of itself, constitute just cause for failure to operate all performances on the dates and at the times specified.

(7) In the event that performances licensed to be operated by a permit holder are vacated, abandoned, or will not be used for any reason, any permit holder shall be entitled, pursuant to rules adopted by the division, to apply to conduct performances on the dates for which the performances have been abandoned. The division shall issue an amended license for all such replacement performances which have been requested in compliance with the provisions of this chapter and division rules.

(8) In addition to the conduct of pari-mutuel wagering and cardroom operations conducted pursuant to s. 849.086, any permitted facility may be used for the conduct of concerts, trade shows, expositions, conventions, flea markets, charitable events, and similar activities, subject to any local ordinance.

(9) Any permit which was converted from a jai alai permit to a greyhound permit may be converted to a jai alai permit at any time if the permit holder never conducted greyhound racing or if the permit holder has not conducted greyhound racing for a period of 12 consecutive months.

(10) Notwithstanding any other provision of this section, any jai alai permit holder may apply for a license, or for an amendment of its license, to conduct performances for fiscal year 1998-1999 if the date of the application is later than June 30, 1998, and earlier than July 11, 1998. The division must issue such a license within 15 days after receiving the application.

History.--s. 5, ch. 92-348; s. 2, ch. 95-390; ss. 2, 16, ch. 96-364; s. 27, ch. 97-94; s. 1, ch. 98-190; s. 1, ch. 98-401.

550.0235 Limitation of civil liability.--

No permittee conducting a racing meet pursuant to the provisions of this chapter; no division director or employee of the division; and no steward, judge, or other person appointed to act pursuant to this chapter shall be held liable to any person, partnership, association, corporation, or other business entity for any cause whatsoever arising out of, or from, the performance by such permittee, director, employee,

steward, judge, or other person of her or his duties and the exercise of her or his discretion with respect to the implementation and enforcement of the statutes and rules governing the conduct of pari-mutuel wagering, so long as she or he acted in good faith. This section shall not limit liability in any situation in which the negligent maintenance of the premises or the negligent conduct of a race contributed to an accident; nor shall it limit any contractual liability.

History.--s. 8, ch. 92-348; s. 782, ch. 97-103.

550.0251 The powers and duties of the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.—

The division shall administer this chapter and regulate the pari-mutuel industry under this chapter and the rules adopted pursuant thereto, and:

(1) The division shall make an annual report to the Governor showing its own actions, receipts derived under the provisions of this chapter, the practical effects of the application of this chapter, and any suggestions it may approve for the more effectual accomplishments of the purposes of this chapter.

(2) The division shall require an oath on application documents as required by rule, which oath must state that the information contained in the document is true and complete.

(3) The division shall adopt reasonable rules for the control, supervision, and direction of all applicants, permittees, and licensees and for the holding, conducting, and operating of all racetracks, race meets, and races held in this state. Such rules must be uniform in their application and effect, and the duty of exercising this control and power is made mandatory upon the division.

(4) The division may take testimony concerning any matter within its jurisdiction and issue summons and subpoenas for any witness and subpoenas duces tecum in connection with any matter within the jurisdiction of the division under its seal and signed by the director.

(5) The division may adopt rules establishing procedures for testing occupational licenseholders officiating at or participating in any race or game at any pari-mutuel facility under the jurisdiction of the division for a controlled substance or alcohol and may prescribe procedural matters not in conflict with s. 120.80(4)(a).

(6) In addition to the power to exclude certain persons from any pari-mutuel facility in this state, the division may exclude any person from any and all pari-mutuel facilities in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the division. The division may exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state or who has been

excluded from any pari-mutuel facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over pari-mutuel facilities in such other state. The division may authorize any person who has been ejected or excluded from pari-mutuel facilities in this state or another state to attend the pari-mutuel facilities in this state upon a finding that the attendance of such person at pari-mutuel facilities would not be adverse to the public interest or to the integrity of the sport or industry; however, this subsection shall not be construed to abrogate the common-law right of a pari-mutuel permitholder to exclude absolutely a patron in this state.

(7) The division may oversee the making of, and distribution from, all pari-mutuel pools.

(8) The department may collect taxes and require compliance with reporting requirements for financial information as authorized by this chapter. In addition, the secretary of the department may require permitholders conducting pari-mutuel operations within the state to remit taxes, including fees, by electronic funds transfer if the taxes and fees amounted to \$50,000 or more in the prior reporting year.

(9) The division may conduct investigations in enforcing this chapter, except that all information obtained pursuant to an investigation by the division for an alleged violation of this chapter or rules of the division is exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution until an administrative complaint is issued or the investigation is closed or ceases to be active. This subsection does not prohibit the division from providing such information to any law enforcement agency or to any other regulatory agency. For the purposes of this subsection, an investigation is considered to be active while it is being conducted with reasonable dispatch and with a reasonable, good faith belief that it could lead to an administrative, civil, or criminal action by the division or another administrative or law enforcement agency. Except for active criminal intelligence or criminal investigative information, as defined in s. 119.011, and any other information that, if disclosed, would jeopardize the safety of an individual, all information, records, and transcriptions become public when the investigation is closed or ceases to be active.

(10) The division may impose an administrative fine for a violation under this chapter of not more than \$1,000 for each count or separate offense, except as otherwise provided in this chapter, and may suspend or revoke a permit, a pari-mutuel license, or an occupational license for a violation under this chapter. All fines imposed and collected under this subsection must be deposited with the Treasurer to the credit of the General Revenue Fund.

(11) The division shall supervise and regulate the welfare of racing animals at pari-mutuel facilities.

(12) The division shall have full authority and power to make, adopt, amend, or repeal rules relating to cardroom

operations, to enforce and to carry out the provisions of s. 849.086, and to regulate the authorized cardroom activities in the state. The division is authorized to adopt emergency rules prior to January 1, 1997, to implement the provisions of s. 849.086.

(13) The division shall have the authority to suspend a permit holder's permit or license, if such permit holder is operating a cardroom facility and such permit holder's cardroom license has been suspended or revoked pursuant to s. 849.086.

History.--s. 7, ch. 92-348; s. 207, ch. 94-218; s. 1, ch. 95-204; s. 3, ch. 95-390; s. 21, ch. 96-364; s. 343, ch. 96-406; s. 248, ch. 96-410.

550.0351 Charity racing days.--

(1) The division shall, upon the request of a permit holder, authorize each horseracing permit holder, dogracing permit holder, and jai alai permit holder up to five charity or scholarship days in addition to the regular racing days authorized by law.

(2) The proceeds of charity performances shall be paid to qualified beneficiaries selected by the permit holders from an authorized list of charities on file with the division. Eligible charities include any charity that provides evidence of compliance with the provisions of chapter 496 and evidence of possession of a valid exemption from federal taxation issued by the Internal Revenue Service. In addition, the authorized list must include the Racing Scholarship Trust Fund, the Historical Resources Operating Trust Fund, major state and private institutions of higher learning, and Florida community colleges.

(3) The permit holder shall, within 120 days after the conclusion of its fiscal year, pay to the authorized charities the total of all profits derived from the operation of the charity day performances conducted. If charity days are operated on behalf of another permit holder pursuant to law, the permit holder entitled to distribute the proceeds shall distribute the proceeds to charity within 30 days after the actual receipt of the proceeds.

(4) The total of all profits derived from the conduct of a charity day performance must include all revenues derived from the conduct of that racing performance, including all state taxes that would otherwise be due to the state, except that the daily license fee as provided in s. 550.0951(1) and the breaks for the promotional trust funds as provided in s. 550.2625(3), (4), (5), (7), and (8) shall be paid to the division. All other revenues from the charity racing performance, including the commissions, breaks, and admissions and the revenues from parking, programs, and concessions, shall be included in the total of all profits.

(5) In determining profit, the permitholder may elect to distribute as proceeds only the amount equal to the state tax that would otherwise be paid to the state if the charity day were conducted as a regular or matinee performance.

(6)(a) The division shall authorize one additional scholarship day for horseracing in addition to the regular racing days authorized by law and any additional days authorized by this section, to be conducted at all horse racetracks located in Hillsborough County. The permitholder shall conduct a full schedule of racing on the scholarship day.

(b) The funds derived from the operation of the additional scholarship day shall be allocated as provided in this section and paid to Pasco-Hernando Community College.

(c) When a charity or scholarship performance is conducted as a matinee performance, the division may authorize the permitholder to conduct the evening performances of that operation day as a regular performance in addition to the regular operating days authorized by law.

(7) In addition to the charity days authorized by this section, any dogracing permitholder may allow its facility to be used for conducting "hound dog derbies" or "mutt derbies" on any day during each racing season by any charitable, civic, or nonprofit organization for the purpose of conducting "hound dog derbies" or "mutt derbies" if only dogs other than those usually used in dogracing (greyhounds) are permitted to race and if adults and minors are allowed to participate as dog owners or spectators. During these racing events, betting, gambling, and the sale or use of alcoholic beverages is prohibited.

(8) In addition to the eligible charities that meet the criteria set forth in this section, a jai alai permitholder is authorized to conduct one additional charity performance each fiscal year for a fund to benefit retired jai alai players. This performance shall be known as the "Retired Jai Alai Players Charity Day." The administration of this fund shall be determined by rule by the division.

(9) Notwithstanding the limitations set forth in subsection (8), any jai alai permitholder who has not conducted one "Retired Jai Alai Players Charity Day" performance per year since the 1992-1993 fiscal year is authorized to conduct up to two performances per fiscal year until the time when the total number of such performances is equivalent to the total number of fiscal years. This subsection shall be repealed on July 1, 2000.

History.--s. 9, ch. 92-348; s. 3, ch. 96-364; s. 12, ch. 96-418.

550.0425 Minors attendance at pari-mutuel performances; restrictions.--

(1) A minor, when accompanied by one or both parents or by her or his legal guardian, may attend pari-mutuel performances, under the conditions and at the times specified by each permitholder conducting the pari-mutuel performance.

(2) A person under the age of 18 may not place a wager at any pari-mutuel performance.

(3) Notwithstanding subsections (1) and (2), minors may be employed at a pari-mutuel facility except in positions directly involving wagering or alcoholic beverages or except as otherwise prohibited by law.

(4) Minor children of licensed greyhound trainers, kennel operators, or other licensed persons employed in the kennel compound areas may be granted access to kennel compound areas without being licensed, provided they are in no way employed unless properly licensed, and only when under the direct supervision of one of their parents or legal guardian.

History.--s. 10, ch. 92-348; s. 783, ch. 97-103.

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

(1) Any person who possesses the qualifications prescribed in this chapter may apply to the division for a permit to conduct pari-mutuel operations under this chapter. Applications for a pari-mutuel permit are exempt from the 90-day licensing requirement of s. 120.60. Within 120 days after receipt of a complete application, the division shall grant or deny the permit. A completed application that is not acted upon within 120 days after receipt is deemed approved, and the division shall grant the permit.

(2) Upon each application filed and approved, a permit shall be issued to the applicant setting forth the name of the permitholder, the location of the pari-mutuel facility, the type of pari-mutuel activity desired to be conducted, and a statement showing qualifications of the applicant to conduct pari-mutuel performances under this chapter; however, a permit is ineffectual to authorize any pari-mutuel performances until approved by a majority of the electors participating in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities. In addition, an application may not be considered, nor may a permit be issued by the division or be voted upon in any county, to conduct horseraces, harness horse races, or dograces at a location within 100 miles of an existing pari-mutuel facility, or for jai alai within 50 miles of an existing pari-mutuel facility; this distance shall be measured on a straight line from the nearest property line of one pari-mutuel facility to the nearest property line of the other facility.

(3) The division shall require that each applicant submit an application setting forth:

- (a) The full name of the applicant.
- (b) If a corporation, the name of the state in which incorporated and the names and addresses of the officers, directors, and shareholders holding 5 percent or more equity or, if a business entity other than a corporation, the names and addresses of the principals, partners, or shareholders holding 5 percent or more equity.
- (c) The names and addresses of the ultimate equitable owners for a corporation or other business entity, if different from those provided under paragraph (b), unless the securities of the corporation or entity are registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk; and if such corporation or entity files with the United States Securities and Exchange Commission the reports required by s. 13 of that act or if the securities of the corporation or entity are regularly traded on an established securities market in the United States.
- (d) The exact location where the applicant will conduct pari-mutuel performances.
- (e) Whether the pari-mutuel facility is owned or leased and, if leased, the name and residence of the fee owner or, if a corporation, the names and addresses of the directors and stockholders thereof. However, this chapter does not prevent a person from applying to the division for a permit to conduct pari-mutuel operations, regardless of whether the pari-mutuel facility has been constructed or not, and having an election held in any county at the same time that elections are held for the ratification of any permit in that county.
- (f) A statement of the assets and liabilities of the applicant.
- (g) The names and addresses of any mortgagee of any pari-mutuel facility and any financial agreement between the parties. The division may require the names and addresses of the officers and directors of the mortgagee, and of those stockholders who hold more than 10 percent of the stock of the mortgagee.
- (h) A business plan for the first year of operation.
- (i) For each individual listed in the application as an owner, partner, officer, or director, a complete set of fingerprints that has been taken by an authorized law enforcement officer. These sets of fingerprints must be submitted to the Federal Bureau of Investigation for processing. Applicants who are foreign nationals shall submit such documents as necessary to allow the division to conduct criminal history records checks in the applicant's home country. The applicant must pay the cost of processing. The division may charge a \$2 handling fee for each set of fingerprint records.
- (j) The type of pari-mutuel activity to be conducted and the desired period of operation.

(k) Other information the division requires.

(4) The division shall require each applicant to deposit with the board of county commissioners of the county in which the election is to be held, a sufficient sum, in currency or by check certified by a bank licensed to do business in the state to pay the expenses of holding the election provided in s. 550.0651.

(5) Upon receiving an application and any amendments properly made thereto, the division shall further investigate the matters contained in the application. If the applicant meets all requirements, conditions, and qualifications set forth in this chapter and the rules of the division, the division shall grant the permit.

(6) After initial approval of the permit and the source of financing, the terms and parties of any subsequent refinancing must be disclosed by the applicant or the permitholder to the division.

(7) If the division refuses to grant the permit, the money deposited with the board of county commissioners for holding the election must be refunded to the applicant. If the division grants the permit applied for, the board of county commissioners shall order an election in the county to decide whether the permit will be approved, as provided in s. 550.0651.

(8)(a) The division may charge the applicant for reasonable, anticipated costs incurred by the division in determining the eligibility of any person or entity specified in s. 550.1815(1)(a) to hold any pari-mutuel permit, against such person or entity.

(b) The division may, by rule, determine the manner of paying its anticipated costs associated with determination of eligibility and the procedure for filing applications for determination of eligibility.

(c) The division shall furnish to the applicant an itemized statement of actual costs incurred during the investigation to determine eligibility.

(d) If unused funds remain at the conclusion of such investigation, they must be returned to the applicant within 60 days after the determination of eligibility has been made.

(e) If the actual costs of investigation exceed anticipated costs, the division shall assess the applicant the amount necessary to recover all actual costs.

(9)(a) After a permit has been granted by the division and has been ratified and approved by the majority of the electors participating in the election in the county designated in the permit, the division shall grant to the lawful permitholder, subject to the conditions of this chapter, a license to conduct pari-mutuel operations under this chapter, and, except as provided in s. 550.5251, the division shall fix annually the time, place, and number of days during

which pari-mutuel operations may be conducted by the permitholder at the location fixed in the permit and ratified in the election. After the first license has been issued to the holder of a ratified permit for racing in any county, all subsequent annual applications for a license by that permitholder must be accompanied by proof, in such form as the division requires, that the ratified permitholder still possesses all the qualifications prescribed by this chapter and that the permit has not been recalled at a later election held in the county.

(b) The division may revoke or suspend any permit or license issued under this chapter upon the willful violation by the permitholder or licensee of any provision of this chapter or of any rule adopted under this chapter. In lieu of suspending or revoking a permit or license, the division may impose a civil penalty against the permitholder or licensee for a violation of this chapter or any rule adopted by the division. The penalty so imposed may not exceed \$1,000 for each count or separate offense. All penalties imposed and collected must be deposited with the Treasurer to the credit of the General Revenue Fund.

(10) If a permitholder has failed to complete construction of at least 50 percent of the facilities necessary to conduct pari-mutuel operations within 12 months after approval by the voters of the permit, the division shall revoke the permit upon adequate notice to the permitholder. However, the division, upon good cause shown by the permitholder, may grant one extension of up to 12 months.

(11)(a) A permit granted under this chapter may not be transferred or assigned except upon written approval by the division pursuant to s. 550.1815, 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.

(b) If a permit to conduct pari-mutuel wagering 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 division pursuant to s. 550.1815.

(12) 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 shall be approved by the division prior to such change, unless the owner is an existing owner of that permit who was previously approved by the division. Changes in ownership or interest of a pari-mutuel permit of less than 5 percent shall be reported to the division within 20 days of the change. The division may then conduct an investigation to ensure that the permit is properly updated to show the change in ownership or interest.

(13)(a) Notwithstanding any provisions of this chapter, no thoroughbred horse racing permit or license issued

under this chapter shall be transferred, or reissued when such reissuance is in the nature of a transfer so as to permit or authorize a licensee to change the location of a thoroughbred horse racetrack except upon proof in such form as the division may prescribe that a referendum election has been held:

1. If the proposed new location is within the same county as the already licensed location, in the county where the licensee desires to conduct the race meeting and that a majority of the electors voting on that question in such election voted in favor of the transfer of such license.

2. If the proposed new location is not within the same county as the already licensed location, in the county where the licensee desires to conduct the race meeting and in the county where the licensee is already licensed to conduct the race meeting and that a majority of the electors voting on that question in each such election voted in favor of the transfer of such license.

(b) Each referendum held under the provisions of this subsection shall be held in accordance with the electoral procedures for ratification of permits, as provided in s. 550.0651. The expense of each such referendum shall be borne by the licensee requesting the transfer.

History.--s. 11, ch. 92-348; s. 4, ch. 95-390; s. 27, ch. 97-98.

550.0555 Greyhound dogracing permits; relocation within a county; conditions.--

(1) It is the finding of the Legislature that pari-mutuel wagering on greyhound dogracing provides substantial revenues to the state. It is the further finding that, in some cases, this revenue-producing ability is hindered due to the lack of provisions allowing the relocation of existing dogracing operations. It is therefore declared that state revenues derived from greyhound dogracing will continue to be jeopardized if provisions allowing the relocation of such greyhound racing permits are not implemented. This enactment is made pursuant to, and for the purpose of, implementing such provisions.

(2) Any holder of a valid outstanding permit for greyhound dogracing in a county in which there is only one dogracing permit issued is authorized, without the necessity of an additional county referendum required under s. 550.0651, to move the location for which the permit has been issued to another location within a 30-mile radius of the location fixed in the permit issued in that county, provided the move does not cross the county boundary, that such relocation is approved under the zoning regulations of the county or municipality in which the permit is to be located, and that such move is approved by the department after it is determined at a proceeding pursuant to chapter

120 in the county affected that the move is necessary to ensure the revenue-producing capability of the permittee without deteriorating the revenue-producing capability of any other pari-mutuel permittee within 50 miles; the distance shall be measured on a straight line from the nearest property line of one racing plant to the nearest property line of the other.

History.--s. 12, ch. 92-348.

550.0651 Elections for ratification of permits.--

(1) The holder of any permit may have submitted to the electors of the county designated therein the question whether or not such permit will be ratified or rejected. Such questions shall be submitted to the electors for approval or rejection at a special election to be called for that purpose only. The board of county commissioners of the county designated, upon the presentation to such board at a regular or special meeting of a written application, accompanied by a certified copy of the permit granted by the division, and asking for an election in the county in which the application was made, shall order a special election in the county for the particular purpose of deciding whether such permit shall be approved and license issued and race meetings permitted in such county by such permittee and shall cause the clerk of such board to give notice of the special election by publishing the same once each week for 2 consecutive weeks in one or more newspapers of general circulation in the county. Each permit covering each track must be voted upon separately and in separate elections, and an election may not be called more often than once every 2 years for the ratification of any permit covering the same track.

(2) All elections ordered under this chapter must be held within 90 days and not less than 21 days after the time of presenting such application to the board of county commissioners, and the inspectors of election shall be appointed and qualified as in cases of general elections, and they shall count the votes cast and make due returns of same to the board of county commissioners without delay. The board of county commissioners shall canvass the returns, declare the results, and cause the same to be recorded as provided in the general law concerning elections so far as applicable.

(3) When a permit has been granted by the division and no application to the board of county commissioners has been made by the permittee within 6 months after the granting of the permit, the permit becomes void. The division shall cancel the permit without notice to the permitholder, and the board of county commissioners holding the deposit for the election shall refund the deposit to the permitholder upon being notified by the division that the permit has become void and has been canceled.

(4) All electors duly registered and qualified to vote at the last preceding general election held in such county are qualified electors for such election, and in addition thereto the registration books for such county shall be opened on the 10th day (if the 10th day is a Sunday or a holiday, then on the next day not a Sunday or holiday) after such election is ordered and called and must remain open for a period of 10 days for additional registrations of persons qualified for registration but not already registered. Electors for such special election have the same qualifications for and prerequisites to voting in elections as under the general election laws.

(5) If at any such special election the majority of the electors voting on the question of ratification or rejection of any permit vote against such ratification, such permit is void. If a majority of the electors voting on the question of ratification or rejection of any permit vote for such ratification, such permit becomes effectual and the holder thereof may conduct racing upon complying with the other provisions of this chapter. The board of county commissioners shall immediately certify the results of the election to the division.

History.--s. 13, ch. 92-348.

550.0745 Conversion of pari-mutuel permit to summer jai alai permit.--

(1) The owner or operator of a pari-mutuel permit who is authorized by the division to conduct pari-mutuel pools on exhibition sports in any county having five or more such pari-mutuel permits and whose mutuel play from the operation of such pari-mutuel pools for the 2 consecutive years next prior to filing an application under this section has had the smallest play or total pool within the county may apply to the division to convert its permit to a permit to conduct a summer jai alai fronton in such county during the summer season commencing on May 1 and ending on November 30 of each year on such dates as may be selected by such permittee for the same number of days and performances as are allowed and granted to winter jai alai frontons within such county. If a permittee who is eligible under this section to convert a permit declines to convert, a new permit is hereby made available in that permittee's county to conduct summer jai alai games as provided by this section, notwithstanding mileage and permit ratification requirements. If a permittee converts a quarter horse permit pursuant to this section, nothing in this section prohibits the permittee from obtaining another quarter horse permit. Such permittee shall pay the same taxes as are fixed and required to be paid from the pari-mutuel pools of winter jai alai permittees and is bound by all of the rules and provisions of this chapter which apply to the operation of winter jai alai frontons. Such permittee shall only be permitted to operate a jai alai fronton after its application has been submitted to the division and its license has been

issued pursuant to the application. The license is renewable from year to year as provided by law.

(2) Such permittee is entitled to the issuance of a license for the operation of a jai alai fronton during the summer season as fixed in this section. A permittee granted a license under this section may not conduct pari-mutuel pools during the summer season except at a jai alai fronton as provided in this section. Such license authorizes the permittee to operate at any jai alai permittee's plant it may lease or build within such county.

(3) Such license for the operation of a jai alai fronton shall never be permitted to be operated during the jai alai winter season; and neither the jai alai winter licensee or the jai alai summer licensee shall be permitted to operate on the same days or in competition with each other. This section does not prevent the summer jai alai permittee from leasing the facilities of the winter jai alai permittee for the operation of the summer meet.

(4) The provisions of this chapter which prohibit the location and operation of jai alai frontons within a specified distance from the location of another jai alai fronton or other permittee and which prohibit the division from granting any permit at a location within a certain designated area do not apply to the provisions of this section and do not prevent the issuance of a license under this section.

History.--s. 14, ch. 92-348.

550.0951 Payment of daily license fee and taxes.--

(1)(a) DAILY LICENSE FEE.--Each person engaged in the business of conducting race meetings or jai alai games under this chapter, hereinafter referred to as the "permitholder," "licensee," or "permittee," shall pay to the division, for the use of the division, a daily license fee on each live or simulcast pari-mutuel event of \$100 for each horserace and \$80 for each dograce and \$40 for each jai alai game conducted at a racetrack or fronton licensed under this chapter. Effective October 1, 1996, in addition to the tax exemption specified in s. 550.09514(1) of \$360,000 or \$500,000 per greyhound permitholder per state fiscal year, each greyhound permitholder shall receive in the current state fiscal year a tax credit equal to the number of live greyhound races conducted in the previous state fiscal year times the daily license fee specified for each dograce in this subsection applicable for the previous state fiscal year. This tax credit and the exemption in s. 550.09514(1) shall be applicable to the tax on live handle under subsection (3) except during any charity or scholarship performances conducted pursuant to s. 550.0351. Effective October 1, 1996, each permitholder shall pay daily license fees not to exceed \$500 per day on any simulcast races or games on which such permitholder accepts wagers regardless of the number of out-of-state events taken or the

number of out-of-state locations from which such events are taken. This license fee shall be deposited with the Treasurer to the credit of the Pari-mutuel Wagering Trust Fund.

(b) Each permitholder authorized a maximum tax savings of \$500,000 per state fiscal year pursuant to s.

550.09514(1) or the greyhound permitholder that had the lowest live handle during the preceding state fiscal year,

which cannot utilize the full amount of the daily license fee credit, may, after notifying the division in writing, elect once

per state fiscal year on a form provided by the division to transfer such credit or any portion thereof to any greyhound

permitholder which acts as a host track to such permitholder for the purpose of intertrack wagering. Once an election

to transfer such credit is filed with the division it shall not be rescinded. The division shall disapprove the credit

transfer when the amount of credit or portion thereof is unavailable to the transferring permitholder or when the

permitholder, who is entitled to transfer the credit or who is entitled to receive the credit, owes taxes to the state

pursuant to a deficiency letter or administrative complaint issued by the division. Upon approval of the transfer by the

division, the transferred tax credit shall be effective for the first performance of the next biweekly pay period as

specified in subsection (5). The daily license fee credit transferred to such host track may be applied by such host

track against its taxes on live racing as provided in this subsection. The greyhound permitholder host track to which

such daily license fee credit is transferred shall reimburse such permitholder the exact monetary value of such

transferred credit as actually applied against the taxes of the host track. The division shall ensure that all transfers of

credit are made in accordance with this subsection and shall have the authority to adopt rules to ensure the

implementation of this section.

(2) ADMISSION TAX.--

(a) An admission tax equal to 15 percent of the admission charge for entrance to the permitholder's facility and

grandstand area, or 10 cents, whichever is greater, is imposed on each person attending a horserace, dograce, or jai

al'ai game. The permitholder shall be responsible for collecting the admission tax.

(b) No admission tax under this chapter or chapter 212 shall be imposed on any free passes or complimentary

cards issued to persons for which there is no cost to the person for admission to pari-mutuel events.

(c) A permitholder may issue tax-free passes to its officers, officials, and employees or other persons actually

engaged in working at the racetrack, including accredited press representatives such as reporters and editors, and

may also issue tax-free passes to other permitholders for the use of their officers and officials. The permitholder shall

file with the division a list of all persons to whom tax-free passes are issued under this paragraph.

(3) TAX ON HANDLE.--Each permitholder shall pay a tax on contributions to pari-mutuel pools, the aggregate of which is hereinafter referred to as "handle," on races or games conducted by the permitholder. The tax is imposed daily and is based on the total contributions to all pari-mutuel pools conducted during the daily performance. If a permitholder conducts more than one performance daily, the tax is imposed on each performance separately.

(a) The tax on handle for thoroughbred horse racing, harness horse racing, and quarter horse racing is 3.3 percent of the handle.

(b) The tax on handle for dogracing is 7.6 percent of the handle and for jai alai is 7.1 percent of the handle.

(c)1. The tax on handle for intertrack wagering is 3.3 percent of the handle if the host track is a horse track, 7.6 percent if the host track is a dog track, and 7.1 percent if the host track is a jai alai fronton. The tax on handle for intertrack wagering on rebroadcasts of simulcast horseraces is 2.4 percent of the handle. The tax shall be deposited into the General Revenue Fund.

2. Effective October 1, 1996, the tax on handle for intertrack wagers accepted by any dog track located in an area of the state in which there are only three permitholders, all of which are greyhound permitholders, located in three contiguous counties, from any greyhound permitholder also located within such area or any dog track or jai alai fronton located as specified in s. 550.615(6) or (8), on races or games received from the same class of permitholder located within the same market area is 6 percent if the host facility is a greyhound permitholder and, if the host facility is a jai alai permitholder, the rate shall be 6.1 percent except that it shall be 2.3 percent on handle at such time as the total tax on intertrack handle paid to the division by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the division by the permitholder during the 1992-1993 state fiscal year.

3. Any guest track that imposes a surcharge on each winning ticket cashed pursuant to s. 550.6335 shall pay an additional tax equal to 5 percent of the surcharge so imposed. Any taxes so imposed shall be deposited into the General Revenue Fund.

(4) BREAKS TAX.--Effective October 1, 1996, each permitholder conducting jai alai performances shall pay a tax equal to the breaks. The "breaks" represents that portion of each pari-mutuel pool which is not redistributed to the contributors or withheld by the permitholder as commission.

(5) PAYMENT AND DISPOSITION OF FEES AND TAXES.--Payment for the admission tax, tax on handle,

and the breaks tax imposed by this section shall be paid to the division. The division shall deposit these sums with the Treasurer, one-half being credited to the Pari-mutuel Wagering Trust Fund, hereby established, and one-half being credited to the General Revenue Fund. The permitholder shall remit to the division payment for the daily license fee, the admission tax, the tax on handle, and the breaks tax. Such payments shall be remitted by 3 p.m. Friday of each week for taxes and fees imposed and collected for the preceding Sunday, Monday, and Tuesday, and by 3 p.m. Wednesday of each week for taxes imposed and collected for the preceding Wednesday, Thursday, Friday, and Saturday. Permitholders shall file a report under oath by the 5th day of each calendar month for all taxes remitted during the preceding calendar month. Such payments shall be accompanied by a report under oath showing the total of all admissions, the pari-mutuel wagering activities for the preceding calendar month, and such other information as may be prescribed by the division.

(6) PENALTIES.--

(a) The failure of any permitholder to make payments as prescribed in subsection (5) is a violation of this section, and the permitholder may be subjected by the division to a civil penalty of up to \$1,000 for each day the tax payment is not remitted. All penalties imposed and collected shall be deposited in the General Revenue Fund. If a permitholder fails to pay penalties imposed by order of the division under this subsection, the division may suspend or revoke the license of the permitholder, cancel the permit of the permitholder, or deny issuance of any further license or permit to the permitholder.

(b) In addition to the civil penalty prescribed in paragraph (a), any willful or wanton failure by any permitholder to make payments of the daily license fee, admission tax, tax on handle, breaks tax, or surtax constitutes sufficient grounds for the division to suspend or revoke the license of the permitholder, to cancel the permit of the permitholder, or to deny issuance of any further license or permit to the permitholder.

History.--s. 15, ch. 92-348; s. 2, ch. 94-328; ss. 4, 26, ch. 96-364; s. 2, ch. 98-190; ss. 5, 6, ch. 98-217.

550.09511 Jai alai taxes; abandoned interest in a permit for nonpayment of taxes.--

(1)(a) Pari-mutuel wagering at jai alai frontons in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operations of the state. Jai alai permitholders should pay their fair share of these taxes to the state. As further prescribed in paragraph (b), this business interest should not be taxed to such an extent as to cause any fronton which is operated under sound business principles to be forced out of

business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the jai alai industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between jai alai permitholders based upon their ability to operate under such regulation and tax system.

(b) Under the taxation system set forth in this section, which is based upon revenues instead of profits, a jai alai permitholder should pay its fair share of taxes to the state, but it should not be subjected to taxes that might cause it to operate at a loss, impair its ability to service debt or to maintain its fixed assets, or otherwise jeopardize its existence and the jobs of its employees. Any jai alai permitholder that has incurred state taxes on handle and admissions in an amount that exceeds its operating earnings in a fiscal year that ends during or after the 1997-1998 state fiscal year is entitled to credit the excess amount of the taxes against state pari-mutuel taxes due and payable after June 30, 1998, during its next ensuing meets. As used in this paragraph, the term "operating earnings" means total revenues from pari-mutuel operations net of state taxes and fees less total expenses but excluding from expenses any deductions for interest, depreciation and amortization, payments to affiliated entities other than for reimbursement of expenses related to pari-mutuel operations, and any increase in an officer's or director's annual compensation above the amount paid during calendar year 1997.

(2) Notwithstanding the provisions of s. 550.0951(3)(b), wagering on live jai alai performances shall be subject to the following taxes:

(a)1. The tax on handle per performance for live jai alai performances is 4.25 percent of handle per performance. However, when the live handle of a permitholder during the preceding state fiscal year was less than \$15 million, the tax shall be paid on the handle in excess of \$30,000 per performance per day.

2. The tax rate shall be applicable only until the requirements of paragraph (b) are met.

(b) At such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the division by a permitholder during the current state fiscal year exceeds the total state tax revenues from wagering on live jai alai performances paid or due by the permitholder in fiscal year 1991-1992, the permitholder shall pay tax on handle for live jai alai performances at a rate of 2.55 percent of the handle per performance for the remainder of the current state fiscal year. For purposes of this section, total state tax revenues on live jai alai wagering in fiscal year 1991-1992 shall include any admissions tax, tax on handle, surtaxes on handle, and daily license fees.

(c) If no tax on handle for live jai alai performances were paid to the division by a jai alai permitholder during the

1991-1992 state fiscal year, then at such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the division by a permitholder during the current state fiscal year exceeds the total state tax revenues from wagering on live jai alai performances paid or due by the permitholder in the last state fiscal year in which the permitholder conducted a full schedule of live games, the permitholder shall pay tax on handle for live jai alai performances at a rate of 3.3 percent of the handle per performance for the remainder of the current state fiscal year. For purposes of this section, total state tax revenues on live jai alai wagering shall include any admissions tax, tax on handle, surtaxes on handle, and daily license fees. This paragraph shall take effect July 1, 1993.

(d) A permitholder who obtains a new permit issued by the division subsequent to the 1991-1992 state fiscal year and a permitholder whose permit has been converted to a jai alai permit under the provisions of this chapter, shall, at such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the division by the permitholder during the current state fiscal year exceeds the average total state tax revenues from wagering on live jai alai performances for the first 3 consecutive jai alai seasons paid to or due the division by the permitholder and during which the permitholder conducted a full schedule of live games, pay tax on handle for live jai alai performances at a rate of 3.3 percent of the handle per performance for the remainder of the current state fiscal year.

(e) The payment of taxes pursuant to paragraphs (b), (c), and (d) shall be calculated and commence beginning the day after the biweekly period in which the permitholder is first entitled to the reduced rate specified in this section and the report of taxes required by s. 550.0951(5) is submitted to the division.

(f) A jai alai permitholder paying taxes under this section shall retain the breaks and pay an amount equal to the breaks as special prize awards which shall be in addition to the regular contracted prize money paid to jai alai players at the permitholder's facility. Payment of the special prize money shall be made during the permitholder's current meet.

(g) For purposes of this section, "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

(3)(a) Notwithstanding the provisions of subsection (2) and s. 550.0951(3)(c)1., any jai alai permitholder which is restricted under Florida law from operating live performances on a year-round basis is entitled to conduct wagering on live performances at a tax rate of 3.85 percent of live handle. Such permitholder is also entitled to conduct

intertrack wagering as a host permitholder on live jai alai games at its fronton at a tax rate of 3.3 percent of handle at such time as the total tax on intertrack handle paid to the division by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the division by the permitholder during the 1992-1993 state fiscal year.

(b) The payment of taxes pursuant to paragraph (a) shall be calculated and commence beginning the day after the biweekly period in which the permitholder is first entitled to the reduced rate specified in this subsection.

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all jai alai permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

(5) Notwithstanding s. 550.615(2), in any county of the state where there are only two permitholders, one for dogracing and one for jai alai, such jai alai permitholder shall be entitled to conduct intertrack wagering as a guest during calendar year 1997 if it conducted a full schedule of live gaming during fiscal year 1994-1995 and has applied for a license to conduct a full schedule of live gaming during fiscal year 1997-1998. This subsection shall be repealed January 1, 1998.

History.--s. 1, ch. 93-287; s. 3, ch. 94-328; ss. 5, 16, ch. 95-390; ss. 5, 26, ch. 96-364; s. 6, ch. 98-217; s. 2, ch. 98-401.

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

(1) Pari-mutuel wagering at harness horse racetracks in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operation of the state. Harness horse permitholders should pay their fair share of these taxes to the state. This business interest should not be taxed to such an extent as to cause any racetrack which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the harness horse industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between harness horse permitholders based upon their ability to operate under such regulation and tax system.

(2)(a) Notwithstanding the provisions of s. 550.0951(3)(a), the tax on handle for live harness horse performances is 1 percent of handle per performance.

(b) For purposes of this section, the term "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

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

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all harness horse permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

History.--s. 1, ch. 93-288; s. 2, ch. 98-217.

550.09514 Greyhound dogracing taxes; purse requirements.--

(1) Notwithstanding the provisions of s. 550.0951(3)(b), wagering on greyhound racing is subject to a tax on handle for live greyhound racing at the rate of 7.6 percent of handle. Each permitholder shall pay the tax on live handle in excess of \$100,000 per performance until such time as this subsection has resulted in a tax savings per state fiscal year of \$360,000. Thereafter, each permitholder shall pay the tax provided in this subsection on all handle for the remainder of the permitholder's current race meet, and the tax must be calculated and commence beginning the

day after the biweekly period in which the permitholder reaches the maximum tax savings per state fiscal year provided in this section. For the three permitholders which conducted a full schedule of live racing in 1995, and are closest to another state which authorizes greyhound pari-mutuel wagering, the maximum tax savings per state fiscal year shall be \$500,000. The provisions of this subsection relating to tax exemptions shall not apply to any charity or scholarship performances conducted pursuant to s. 550.0351.

(2)(a) The division shall determine for each greyhound permitholder the annual purse percentage rate of live handle for the state fiscal year 1993-1994 by dividing total purses paid on live handle by the permitholder, exclusive of payments made from outside sources, during the 1993-1994 state fiscal year by the permitholder's live handle for the 1993-1994 state fiscal year. Each permitholder shall pay as purses for live races conducted during its current race meet a percentage of its live handle not less than the percentage determined under this paragraph, exclusive of payments made by outside sources, for its 1993-1994 state fiscal year.

(b)1. Except as otherwise provided herein, in addition to the minimum purse percentage required by paragraph (a), each permitholder shall pay as purses, for fiscal year 1996-1997, an amount equal to 75 percent of the permitholder's tax credit pursuant to s. 550.0951(1).

2. Except as otherwise set forth herein, in addition to the minimum purse percentage required by paragraph (a), beginning July 1, 1997, each permitholder shall pay as purses an annual amount equal to 75 percent of the daily license fees paid by each permitholder for the 1994-1995 fiscal year. This purse supplement shall be disbursed weekly during the permitholder's race meet in an amount determined by dividing the annual purse supplement by the number of performances approved for the permitholder pursuant to its annual license and multiplying that amount by the number of performances conducted each week. For the greyhound permitholders in the county where there are two greyhound permitholders located as specified in s. 550.615(6), such permitholders shall pay in the aggregate an amount equal to 75 percent of the daily license fees paid by such permitholders for the 1994-1995 fiscal year. These permitholders shall be jointly and severally liable for such purse payments.

The additional purses provided by this paragraph must be used exclusively for purses other than stakes. The division shall conduct audits necessary to ensure compliance with this section.

(c)1. Each greyhound permitholder when conducting at least three live performances during any week shall pay purses in that week on wagers it accepts as a guest track on intertrack and simulcast greyhound races at the same rate as it pays on live races. Each greyhound permitholder when conducting at least three live performances during

any week shall pay purses in that week, at the same rate as it pays on live races, on wagers accepted on greyhound races at a guest track which is not conducting live racing and is located within the same market area as the greyhound permitholder conducting at least three live performances during any week.

2. Each host greyhound permitholder shall pay purses on its simulcast and intertrack broadcasts of greyhound races to guest facilities that are located outside its market area in an amount equal to one quarter of an amount determined by subtracting the transmission costs of sending the simulcast or intertrack broadcasts from an amount determined by adding the fees received for greyhound simulcast races plus 3 percent of the greyhound intertrack handle at guest facilities that are located outside the market area of the host and that paid contractual fees to the host for such broadcasts of greyhound races.

(d) The division shall require sufficient documentation from each greyhound permitholder regarding purses paid on live racing to assure that the annual purse percentage rates paid by each permitholder on the live races are not reduced below those paid during the 1993-1994 state fiscal year. The division shall require sufficient documentation from each greyhound permitholder to assure that the purses paid by each permitholder on the greyhound intertrack and simulcast broadcasts are in compliance with the requirements of paragraph (c).

(e) Each greyhound permitholder who conducted live racing in state fiscal year 1993-1994 shall submit to the division by September 1, 1996, purse payment records and copies of purse contracts pertaining to greyhound racing that were in effect during state fiscal year 1993-1994.

(f) Each greyhound permitholder shall, during the permitholder's race meet, supply kennel operators and the Division of Pari-Mutuel Wagering with a weekly report showing purses paid on live greyhound races and all greyhound intertrack and simulcast broadcasts, including both as a guest and a host together with the handle or commission calculations on which such purses were paid and the transmission costs of sending the simulcast or intertrack broadcasts, so that the kennel operators may determine statutory and contractual compliance.

(g) Each greyhound permitholder shall make direct payment of purses to the greyhound owners who have filed with such permitholder appropriate federal taxpayer identification information based on the percentage amount agreed upon between the kennel operator and the greyhound owner.

(h) At the request of a majority of kennel operators under contract with a greyhound permitholder, the permitholder shall make deductions from purses paid to each kennel operator electing such deduction and shall make a direct payment of such deductions to the local association of greyhound kennel operators formed by a majority of

kennel operators under contract with the permitholder. The amount of the deduction shall be at least 1 percent of purses, as determined by the local association of greyhound kennel operators. No deductions may be taken pursuant to this paragraph without a kennel operator's specific approval before or after the effective date of this act.

(3) For the purpose of this section, the term "live handle" means the handle from wagers placed at the permitholder's establishment on the live greyhound races conducted at the permitholder's establishment.

History.--s. 6, ch. 96-364; s. 3, ch. 98-217.

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

(1) Pari-mutuel wagering at thoroughbred horse racetracks in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operation of the state. Thoroughbred horse permitholders should pay their fair share of these taxes to the state. This business interest should not be taxed to such an extent as to cause any racetrack which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the thoroughbred horse industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between thoroughbred horse permitholders based upon their ability to operate under such regulation and tax system and at different periods during the year.

(2)1(a) Notwithstanding the provisions of s. 550.0951(3)(a), the tax on handle for live thoroughbred horse performances shall be subject to the following:

1. The tax on handle per performance for live thoroughbred performances is 2.0 percent of handle for performances conducted during the period beginning on January 3 and ending March 16; .20 percent of handle for performances conducted during the period beginning March 17 and ending May 22; and 1.25 percent of handle for performances conducted during the period beginning May 23 and ending January 2.

2. If any thoroughbred permitholder conducts performances during more than one time period or if performances are conducted during more than one period at any facility, the tax on handle per performance is double the sum of the tax percentages for the periods in which performances are being conducted, except:

a. Pursuant to s. 550.01215, two permitholders, by mutual written agreement, may agree to the operation by one of them in the other permitholder's tax period for up to 3 days, if the 3 days are either the first 3 days or the last 3 days of the racing period in which the permitholders intend to operate.

b. If, on March 31 of any year, there is no permitholder holding a license for operating any one of the three race periods set forth in this section or if the permitholder who is licensed to operate in any period fails to operate for 10 consecutive days, a permitholder already licensed to operate in another period may apply for and be issued a license to operate the period in question, in addition to the period already licensed.

c. Two permitholders who operated in different periods in the preceding fiscal year may, by mutual written agreement, switch periods for the current racing season, even if it results in either permitholder or the facility of a permitholder being operated in two different periods.

However, any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than \$34 million is authorized to conduct live performances at any time of the year and shall pay 0.5 percent on live handle per performance.

3. For the period beginning on April 1 and ending May 23 during the state fiscal year 1992-1993, any permitholder which has operated less than 51 racing days in the last 18 months may operate said period and pay 1.25 percent tax on live handle per performance. In the event this provision takes effect after April 1, 1993, it shall be construed to apply retroactively from April 1, 1993, through May 23, 1993.

4. In the event any licenses have been issued to any thoroughbred permitholders for racing dates prior to April 26, 1993, then, notwithstanding the provisions of 2s. 550.525(2), amendments may be filed to the racing dates up to May 1, 1993.

(b) For purposes of this section, the term "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

(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 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 division 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 division 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.

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all thoroughbred horse permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

(5) Notwithstanding the provisions of s. 550.0951(3)(c), the tax on handle for intertrack wagering on rebroadcasts of simulcast horseraces is 2.4 percent of the handle; provided however, that if the guest track is a thoroughbred track located more than 35 miles from the host track, the host track shall pay a tax of .5 percent of the handle, and additionally the host track shall pay to the guest track 1.9 percent of the handle to be used by the guest track solely for purses. The tax shall be deposited into the General Revenue Fund.

(6) Notwithstanding the provisions of s. 550.0951(3)(c), the tax on handle is 0.2 percent for intertrack wagering and for intertrack wagering on rebroadcasts of simulcast horseraces for a thoroughbred permitholder that conducts performances during the period beginning March 17 and ending May 22. This subsection applies only to thoroughbred permitholders located in any area of the state where there are three or more thoroughbred permitholders within 25 miles of each other. The tax shall be deposited into the General Revenue Fund. Effective July 1, 2001, this subsection is repealed.

History.--s. 1, ch. 93-123; ss. 7, 26, ch. 96-364; ss. 3, 4, ch. 98-190.

1Note.--Section 4, ch. 98-190, amended paragraph (a) of subsection (2), effective July 1, 2001, to read:

(2)(a) Notwithstanding the provisions of s. 550.0951(3)(a), the tax on handle for live thoroughbred horse performances shall be subject to the following:

1. The tax on handle per performance for live thoroughbred performances is 2.25 percent of handle for performances conducted during the period beginning on January 3 and ending March 16; .70 percent of handle for performances conducted during the period beginning March 17 and ending May 22; and 1.5 percent of handle for performances conducted during the period beginning May 23 and ending January 2.

2. However, any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was

not greater than \$34 million is authorized to conduct live performances at any time of the year and shall pay 0.5 percent on live handle per performance.

²Note.--Repealed by s. 67, ch. 92-348.

550.105 Occupational licenses of racetrack employees; fees; denial, suspension, and revocation of license; penalties and fines.--

(1) Each person connected with a racetrack or jai alai fronton shall purchase from the division an annual occupational license, which license is valid from May 1 until June 30 of the following year. All moneys collected pursuant to this section each fiscal year shall be deposited into the Pari-mutuel Wagering Trust Fund. If the division determines that it is in the best interest of the division and persons connected with racetracks, the division may issue a license valid for one season at one racetrack but may not make that determination apply to any person who objects to such determination. In any event, the season license fee must be equal to the annual occupational license fee. Any person may, at her or his option and pursuant to the rules adopted by the division, purchase an occupational license valid for a period of 3 years if the purchaser of the license pays the full occupational license fee for each of the years for which the license is purchased at the time the 3-year license is requested. The occupational license shall be valid during its specified term at any pari-mutuel facility.

(2)(a) Unrestricted licenses shall be issued to persons with access to the backside, racing animals, jai alai players' room, jockeys' room, drivers' room, totalisator room, the mutuels, or money room, or to persons who, by virtue of the position they hold, might be granted access to these areas. Persons issued an unrestricted license require the most state scrutiny, including the submission of fingerprints for a Federal Bureau of Investigation criminal records check.

(b) Restricted licenses shall be issued to persons without access to the backside, racing animals, jai alai players' room, jockeys' room, drivers' room, totalisator room, the mutuels, or money room. Persons issued a restricted license require the less state scrutiny and will not require routine criminal records check. The division may require persons issued the restricted license to submit fingerprints for a criminal records check as needed for investigations.

(c) The division shall promulgate rules regarding unrestricted and restricted occupational licenses.

(d) Pari-mutuel occupational licenses shall be issued in the categories and with scheduled annual fees as follows:

1. Business licenses: any business such as vendors, contractual concessionaires, contract kennels, businesses

owning racing animals, trusts or estates, totalisator companies, stable names, or other fictitious names: \$50.

2. Unrestricted licenses: professional persons with access to the backside of a racetrack or players' quarters in jai alai such as trainers, officials, veterinarians, doctors, nurses, EMT's, jockeys and apprentices, drivers, jai alai players, owners, trustees, or any management or officer or director or shareholder or any other professional level person who might have access to the jockeys' room, drivers' room, the backside, racing animals, or kennel compound: \$40.

3. Unrestricted licenses: general employees with access to the jockeys' room, drivers' room, racing animals, the backside of a racetrack or players' quarters in jai alai such as grooms, kennel helpers, leadouts, pelota makers, cesta makers, ball boys, vendor representatives, or any other occupation who would have access to the animals, the backside, or the kennel compound, or the security or maintenance of these areas: \$10.

4. Unrestricted licenses: managers or supervisors requiring access to mutuels machines, the money room, or totalisator equipment but not requiring access to the backside: \$40.

5. Unrestricted licenses: mutuel employees, totalisator employees, money room employees, and any employee with access to mutuels machines, the money room, or totalisator equipment or the security or maintenance of these areas: \$10.

6. Restricted licenses: managers, supervisors, and other professionals who do not require access to the jockeys' room, drivers' room, racing animals, the backside, the kennel compound, mutuels areas, or money room or totalisator equipment: \$40.

7. Restricted licenses: general employees or occupations which do not require access to the jockeys' room, drivers' room, racing animals, the backside, kennel compound, mutuels areas, money room, or totalisator equipment: \$10.

Certified public accountants and attorneys licensed to practice in this state shall not be required to hold an occupational license under this section while providing accounting or legal services to a permitholder if the certified public accountant's or attorney's primary place of employment is not on the permitholder premises.

(3) It is unlawful for any person to take part in or officiate in any way or to serve in any capacity at any pari-mutuel facility without first having secured a license and paid the occupational license fee.

(4)(a) The division may:

1. Deny a license to or revoke, suspend, or place conditions upon or restrictions on a license of any person who has been refused a license by any other state racing commission or racing authority;

2. Deny, suspend, or place conditions on a license of any person who is under suspension or has unpaid fines in another jurisdiction;

if the state racing commission or racing authority of such other state or jurisdiction extends to the division reciprocal courtesy to maintain the disciplinary control.

(b) The division may deny, suspend, revoke, or declare ineligible any occupational license if the applicant for or holder thereof has violated the provisions of this chapter or the rules of the division governing the conduct of persons connected with racetracks and frontons. In addition, the division may deny, suspend, revoke, or declare ineligible any occupational license if the applicant for such license has been convicted in this state, in any other state, or under the laws of the United States of a capital felony, a felony, or an offense in any other state which would be a felony under the laws of this state involving arson; trafficking in, conspiracy to traffic in, smuggling, importing, conspiracy to smuggle or import, or delivery, sale, or distribution of a controlled substance; or a crime involving a lack of good moral character, or has had a pari-mutuel license revoked by this state or any other jurisdiction for an offense related to pari-mutuel wagering.

(c) The division may deny, declare ineligible, or revoke any occupational license if the applicant for such license has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States, if such felony or misdemeanor is related to gambling or bookmaking, as contemplated in s. 849.25, or involves cruelty to animals. If the applicant establishes that she or he is of good moral character, that she or he has been rehabilitated, and that the crime she or he was convicted of is not related to pari-mutuel wagering and is not a capital offense, the restrictions excluding offenders may be waived by the director of the division.

(d) If an occupational license will expire by division rule during the period of a suspension the division intends to impose, or if a license would have expired but for pending administrative charges and the occupational licensee is found to be in violation of any of the charges, the license may be revoked and a time period of license ineligibility may be declared. The division may bring administrative charges against any person not holding a current license for violations of statutes or rules which occurred while such person held an occupational license, and the division may declare such person ineligible to hold a license for a period of time. The division may impose a civil fine of up to \$1,000 for each violation of the rules of the division in addition to or in lieu of any other penalty provided for in this section. In addition to any other penalty provided by law, the division may exclude from all pari-mutuel facilities in this

state, for a period not to exceed the period of suspension, revocation, or ineligibility, any person whose occupational license application has been denied by the division, who has been declared ineligible to hold an occupational license, or whose occupational license has been suspended or revoked by the division.

(e) The division may cancel any occupational license that has been voluntarily relinquished by the licensee.

(5) In order to promote the orderly presentation of pari-mutuel meets authorized in this chapter, the division may issue a temporary occupational license. The division shall adopt rules to implement this subsection. However, no temporary occupational license shall be valid for more than 30 days, and no more than one temporary license may be issued for any person in any year.

(6) The division may deny, revoke, or suspend any occupational license if the applicant therefor or holder thereof accumulates unpaid obligations or defaults in obligations, or issues drafts or checks that are dishonored or for which payment is refused without reasonable cause, if such unpaid obligations, defaults, or dishonored or refused drafts or checks directly relate to the sport of jai alai or racing being conducted at a pari-mutuel facility within this state.

(7) The division may fine, or suspend or revoke, or place conditions upon, the license of any licensee who under oath knowingly provides false information regarding an investigation by the division.

(8) The tax imposed by this section is in lieu of all license, excise, or occupational taxes to the state or any county, municipality, or other political subdivision, except that, if a race meeting or game is held or conducted in a municipality, the municipality may assess and collect an additional tax against any person conducting live racing or games within its corporate limits, which tax may not exceed \$150 per day for horseracing or \$50 per day for dogracing or jai alai. Except as provided in this chapter, a municipality may not assess or collect any additional excise or revenue tax against any person conducting race meetings within the corporate limits of the municipality or against any patron of any such person.

(9) Upon application for an occupational license, the division may require the applicant's full legal name; any nickname, alias, or maiden name for the applicant; name of the applicant's spouse; the applicant's date of birth, residence address, mailing address, residence address and business phone number, and social security number; disclosure of any felony or any conviction involving bookmaking, illegal gambling, or cruelty to animals; disclosure of any past or present enforcement or actions by any racing or gaming agency against the applicant; and any information the division determines is necessary to establish the identity of the applicant or to establish that the applicant is of

good moral character. Fingerprints shall be taken in a manner approved by the division and then shall be submitted to the Federal Bureau of Investigation, or to the association of state officials regulating pari-mutuel wagering pursuant to the Federal Pari-mutuel Licensing Simplification Act of 1988. The cost of processing fingerprints shall be borne by the applicant and paid to the association of state officials regulating pari-mutuel wagering from the trust fund to which the processing fees are deposited. The division shall require each applicant for an occupational license to have the applicant's signature witnessed and notarized or signed in the presence of a division official. The division, by rule, may require additional information from licensees which is reasonably necessary to regulate the industry. The division may, by rule, exempt certain occupations or groups of persons from the fingerprinting requirements.

History.--s. 16, ch. 92-348; s. 6, ch. 95-390; s. 28, ch. 97-98; s. 784, ch. 97-103.

550.1155 Authority of stewards, judges, panel of judges, or player's manager to impose penalties against occupational licensees; disposition of funds collected.--

(1) The stewards at a horse racetrack; the judges at a dog track; or the judges, a panel of judges, or a player's manager at a jai alai fronton may impose a civil penalty against any occupational licensee for violation of the pari-mutuel laws or any rule adopted by the division. The penalty may not exceed \$1,000 for each count or separate offense or exceed 60 days of suspension for each count or separate offense.

(2) All penalties imposed and collected pursuant to this section at each horse or dog racetrack or jai alai fronton shall be deposited into a board of relief fund established by the pari-mutuel permitholder. Each association shall name a board of relief composed of three of its officers, with the general manager of the permitholder being the ex officio treasurer of such board. Moneys deposited into the board of relief fund shall be disbursed by the board for the specific purpose of aiding occupational licenseholders and their immediate family members at each pari-mutuel facility.

History.--s. 17, ch. 92-348; s. 7, ch. 95-390.

550.125 Uniform reporting system; bond requirement.--

(1) The Legislature finds that a uniform reporting system should be developed to provide acceptable uniform financial data and statistics.

(2)(a) Each permitholder that conducts race meetings or jai alai exhibitions under this chapter shall keep records that clearly show the total number of admissions and the total amount of money contributed to each pari-mutuel pool

on each race or exhibition separately and the amount of money received daily from admission fees and, within 120 days after the end of its fiscal year, shall submit to the division a complete annual report of its accounts, audited by a certified public accountant licensed to practice in the state.

(b) The division shall adopt rules specifying the form and content of such reports, including, but not limited to, requirements for a statement of assets and liabilities, operating revenues and expenses, and net worth, which statement must be audited by a certified public accountant licensed to practice in this state, and any supporting informational schedule found necessary by the division to verify the foregoing financial statement, which informational schedule must be attested to under oath by the permit holder or an officer of record, to permit the division to:

1. Assess the profitability and financial soundness of permit holders, both individually and as an industry;
2. Plan and recommend measures necessary to preserve and protect the pari-mutuel revenues of the state; and
3. Completely identify the holdings, transactions, and investments of permit holders with other business entities.

(c) The Auditor General may audit and check the books and records of any permit holder and, upon the request of the division, shall do so. These audit reports shall become part of, and be maintained in, the division files.

(d) The division shall annually review the books and records of each permit holder and verify that the breaks and unclaimed ticket payments made by each permit holder are true and correct.

(3)(a) Each permit holder to which a license is granted under this chapter, at its own cost and expense, must, before the license is delivered, give a bond in the penal sum of \$50,000 payable to the Governor of the state and her or his successors in office, with a surety or sureties to be approved by the division and the Treasurer, conditioned to faithfully make the payments to the Treasurer in her or his capacity as treasurer of the division; to keep its books and records and make reports as provided; and to conduct its racing in conformity with this chapter. When the greatest amount of tax owed during any month in the prior state fiscal year, in which a full schedule of live racing was conducted, is less than \$50,000, the division may assess a bond in a sum less than \$50,000. The division may review the bond for adequacy and require adjustments each fiscal year. The division has the authority to adopt rules to implement this paragraph and establish guidelines for such bonds.

(b) The provisions of this chapter concerning bonding do not apply to nonwagering licenses issued pursuant to s. 550.505.

History.--s. 18, ch. 92-348; s. 785, ch. 97-103.

550.135 Division of moneys derived under this law.--

All moneys that are deposited with the Treasurer to the credit of the Pari-mutuel Wagering Trust Fund shall be distributed in the following proportions, in the manner and at the times specified in this section:

(1) In each fiscal year, the sum of \$29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county; any excess of such moneys after the distributions to the counties shall be paid into the General Revenue Fund. If the sum available for distribution is less than \$29,915,500, the deficiency shall be paid into the Pari-mutuel Wagering Trust Fund from the General Revenue Fund up to the amount of the deficiency if the deficiency does not exceed the deposits of pari-mutuel tax collections to the General Revenue Fund for that fiscal year.

(2) The distribution among the several counties provided for in subsection (1) shall begin each fiscal year on or before January 5 and shall continue monthly for a total of 4 months. If during the fiscal year the sums available for distribution to the counties is not sufficient to make the scheduled distributions, the division shall immediately transfer to the Pari-mutuel Wagering Trust Fund from deposits made by the division to the General Revenue Fund during that fiscal year, the sums required to make the distributions. If on April 5 the sums distributed to the counties do not equal the maximum sum to be distributed, the division shall immediately transfer to the Pari-mutuel Wagering Trust Fund, from deposits made by the division to the General Revenue Fund during that fiscal year, the sums required to pay each county the sum entitled and shall make such payments on or before the end of that fiscal year. The Comptroller is appointed as the agent of the division to make the distribution to the counties and to make transfers as may be required by this section.

(3) The daily license fee revenues collected pursuant to s. 550.0951(1) shall be used to fund the operating cost of the division and to provide a proportionate share of the operation of the office of the secretary and the Division of Administration of the Department of Business and Professional Regulation; however, other collections in the Pari-mutuel Wagering Trust Fund, after the payments required by subsections (1) and (2), may also be used to fund the operation of the division in accordance with authorized appropriations.

(4) After payments to the counties have been completed as provided in subsections (1) and (2), all unappropriated funds in the Pari-mutuel Wagering Trust Fund shall be deposited to the Treasurer to the credit of the General Revenue Fund as provided in subsection (1).

(5) If a local or special law requires that any moneys accruing to a county under this chapter, the same being division funds, be paid to the Treasurer of the state, as ex officio treasurer of the teachers' salary fund, to the credit of a district school board, those moneys shall be paid directly to the district school board.

History.--s. 19, ch. 92-348; s. 208, ch. 94-218; s. 8, ch. 96-364.

550.155 Pari-mutuel pool within track enclosure; takeouts; breaks; penalty for purchasing part of a pari-mutuel pool for or through another in specified circumstances.--

(1) Wagering on the results of a horserace, dograce, or on the scores or points of a jai alai game and the sale of tickets or other evidences showing an interest in or a contribution to a pari-mutuel pool are allowed within the enclosure of any pari-mutuel facility licensed and conducted under this chapter but are not allowed elsewhere in this state, must be supervised by the division, and are subject to such reasonable rules that the division prescribes.

(2) The permitholder's share of the takeout is that portion of the takeout that remains after the pari-mutuel tax imposed upon the contributions to the pari-mutuel pool is deducted from the takeout and paid by the permitholder.

The takeout is deducted from all pari-mutuel pools but may be different depending on the type of pari-mutuel pool.

The permitholder shall inform the patrons, either through the official program or via the posting of signs at

conspicuous locations, as to the takeout currently being applied to handle at the facility. A capital improvement

proposed by a permitholder licensed under this chapter to a pari-mutuel facility existing on June 23, 1981, which

capital improvement requires, pursuant to any municipal ordinance, resolution, or regulation, the qualification or

approval of the municipality wherein the permitholder conducts its business operations, shall receive approval unless

the municipality is able to show that the proposed improvement presents a justifiable and immediate hazard to the

health and safety of municipal residents, provided the permitholder pays to the municipality or county the cost of a

building permit and provided the capital improvement meets the following criteria:

(a) The improvement does not qualify as a development of regional impact as defined in s. 380.06; and

(b) The improvement is contiguous to or within the existing pari-mutuel facility site. To be contiguous, the site of

the improvement must share a sufficient common boundary with the present pari-mutuel facility to allow full and free

access without crossing a public roadway, public waterway, or similar barrier.

(3) After deducting the takeout and the "breaks," a pari-mutuel pool must be redistributed to the contributors.

(4) Redistribution of funds otherwise distributable to the contributors of a pari-mutuel pool must be a sum equal to the next lowest multiple of 10 on all races and games.

(5) A distribution of a pari-mutuel pool may not be made of the odd cents of any sum otherwise distributable, which odd cents constitute the "breaks."

(6) A person or corporation may not directly or indirectly purchase pari-mutuel tickets or participate in the purchase of any part of a pari-mutuel pool for another for hire or for any gratuity. A person may not purchase any part of a pari-mutuel pool through another wherein she or he gives or pays directly or indirectly such other person anything of value. Any person who violates this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 20, ch. 92-348; s. 8, ch. 95-390; s. 786, ch. 97-103.

550.1625 Dogracing; taxes.--

(1) The operation of a dog track and legalized pari-mutuel betting at dog tracks in this state is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state. Pari-mutuel wagering at dog tracks in this state is a substantial business, and taxes derived therefrom constitute part of the tax structures of the state and the counties. The operators of dog tracks should pay their fair share of taxes to the state; at the same time, this substantial business interest should not be taxed to such an extent as to cause a track that is operated under sound business principles to be forced out of business.

(2) A permitholder that conducts a dograce meet under this chapter must pay the daily license fee, the admission tax, the breaks tax, and the tax on pari-mutuel handle as provided in s. 550.0951 and is subject to all penalties and sanctions provided in 1s. 550.0951(6).

History.--s. 21, ch. 92-348.

1Note.--Substituted by the editors for a reference to s. 550.0951(7), which does not exist; s. 550.0951(6) relates to penalties.

550.1645 Escheat to state of abandoned interest in or contribution to pari-mutuel pools.--

(1) It is the public policy of the state, while protecting the interest of the owners, to possess all unclaimed and abandoned interest in or contribution to any pari-mutuel pool conducted in this state under this chapter, for the benefit of all the people of the state; and this law shall be liberally construed to accomplish such purpose.

(2) All money or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any licensee authorized to conduct pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, if the rightful owner or owners thereof have made no claim or demand for such money or other property within the aforesaid period of time, is hereby declared to have escheated to or to escheat to, and to have become the property of, the state.

(3) All money or other property that has escheated to and become the property of the state as provided herein, and which is held by such licensee authorized to conduct pari-mutuel pools in this state, shall be paid by such licensee to the Treasurer annually within 60 days after the close of the race meeting of the licensee. Such moneys so paid by the licensee to the Treasurer shall be deposited in the State School Fund to be used for the support and maintenance of public free schools as required by s. 6, Art. IX of the State Constitution.

History.--s. 22, ch. 92-348.

550.175 Petition for election to revoke permit.--

Upon petition of 20 percent of the qualified electors of any county wherein any racing has been licensed and conducted under this chapter, the county commissioners of such county shall provide for the submission to the electors of such county at the then next succeeding general election the question of whether any permit or permits theretofore granted shall be continued or revoked, and if a majority of the electors voting on such question in such election vote to cancel or recall the permit theretofore given, the division may not thereafter grant any license on the permit so recalled. Every signature upon every recall petition must be signed in the presence of the clerk of the board of county commissioners at the office of the clerk of the circuit court of the county, and the petitioner must present at the time of such signing her or his registration receipt showing the petitioner's qualification as an elector of the county at the time of the signing of the petition. Not more than one permit may be included in any one petition; and, in all elections in which the recall of more than one permit is voted on, the voters shall be given an opportunity to vote for or against the recall of each permit separately. Nothing in this chapter shall be construed to prevent the holding of later referendum or recall elections.

History.--s. 23, ch. 92-348; s. 787, ch. 97-103.

550.1815 Certain persons prohibited from holding racing or jai alai permits; suspension and revocation.--

(1) A corporation, general or limited partnership, sole proprietorship, business trust, joint venture, or unincorporated association, or other business entity may not hold any horseracing or dogracing permit or jai alai

fronton permit in this state if any one of the persons or entities specified in paragraph (a) has been determined by the division not to be of good moral character or has been convicted of any offense specified in paragraph (b).

- (a)1. The permitholder;
2. An employee of the permitholder;
3. The sole proprietor of the permitholder;
4. A corporate officer or director of the permitholder;
5. A general partner of the permitholder;
6. A trustee of the permitholder;
7. A member of an unincorporated association permitholder;
8. A joint venturer of the permitholder;
9. The owner of more than 5 percent of any equity interest in the permitholder, whether as a common shareholder, general or limited partner, voting trustee, or trust beneficiary; or
10. An owner of any interest in the permit or permitholder, including any immediate family member of the owner, or holder of any debt, mortgage, contract, or concession from the permitholder, who by virtue thereof is able to control the business of the permitholder.

- (b)1. A felony in this state;
2. Any felony in any other state which would be a felony if committed in this state under the laws of this state;
3. Any felony under the laws of the United States;
4. A felony under the laws of another state if related to gambling which would be a felony under the laws of this state if committed in this state; or
5. Bookmaking as defined in s. 849.25.

(2)(a) If the applicant for permit as specified under subsection (1) or a permitholder as specified in paragraph

(1)(a) has received a full pardon or a restoration of civil rights with respect to the conviction specified in paragraph

(1)(b), the conviction does not constitute an absolute bar to the issuance or renewal of a permit or a ground for the revocation or suspension of a permit.

(b) A corporation that has been convicted of a felony is entitled to apply for and receive a restoration of its civil rights in the same manner and on the same grounds as an individual.

(3) After notice and hearing, the division shall refuse to issue or renew or shall suspend, as appropriate, any permit found in violation of subsection (1). The order shall become effective 120 days after service of the order upon the permitholder and shall be amended to constitute a final order of revocation unless the permitholder has, within that period of time, either caused the divestiture, or agreed with the convicted person upon a complete immediate divestiture, of her or his holding, or has petitioned the circuit court as provided in subsection (4) or, in the case of corporate officers or directors of the holder or employees of the holder, has terminated the relationship between the permitholder and those persons mentioned. The division may, by order, extend the 120-day period for divestiture, upon good cause shown, to avoid interruption of any jai alai or race meeting or to otherwise effectuate this section. If no action has been taken by the permitholder within the 120-day period following the issuance of the order of suspension, the division shall, without further notice or hearing, enter a final order of revocation of the permit. When any permitholder or sole proprietor of a permitholder is convicted of an offense specified in paragraph (1)(b), the department may approve a transfer of the permit to a qualified applicant, upon a finding that revocation of the permit would impair the state's revenue from the operation of the permit or otherwise be detrimental to the interests of the state in the regulation of the industry of pari-mutuel wagering. In such approval, no public referendum is required, notwithstanding any other provision of law. A petition for transfer after conviction must be filed with the department within 30 days after service upon the permitholder of the final order of revocation. The timely filing of such a petition automatically stays any revocation order until further order of the department.

(4) The circuit courts have jurisdiction to decide a petition brought by a holder of a pari-mutuel permit that shows that its permit is in jeopardy of suspension or revocation under subsection (3) and that it is unable to agree upon the terms of divestiture of interest with the person specified in subparagraphs (1)(a)3.-9. who has been convicted of an offense specified in paragraph (1)(b). The court shall determine the reasonable value of the interest of the convicted person and order a divestiture upon such terms and conditions as it finds just. In determining the value of the interest of the convicted person, the court may consider, among other matters, the value of the assets of the permitholder, its good will and value as a going concern, recent and expected future earnings, and other criteria usual and customary in the sale of like enterprises.

(5) The division shall make such rules for the photographing, fingerprinting, and obtaining of personal data of individuals described in paragraph (1)(a) and the obtaining of such data regarding the business entities described in paragraph (1)(a) as is necessary to effectuate the provisions of this section.

History.--s. 24, ch. 92-348; s. 29, ch. 97-98; s. 788, ch. 97-103.

550.235 Conniving to prearrange result of race or jai alai game; using medication or drugs on horse or dog; penalty.--

(1) Any person who influences, or has any understanding or connivance with, any owner, jockey, groom, or other person associated with or interested in any stable, kennel, horserace, dograce, or jai alai game, in which any horse, dog, or jai alai player participates, to prearrange or predetermine the results of any such race or game, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who attempts to affect the outcome of a horserace or dograce through administration of medication or drugs to a race animal as prohibited by law; who administers any medication or drugs prohibited by law to a race animal for the purpose of affecting the outcome of a horserace or dograce; or who conspires to administer or to attempt to administer such medication or drugs is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 25, ch. 92-348; s. 30, ch. 97-98.

550.24055 Use of controlled substances or alcohol prohibited; testing of certain occupational licensees;

penalty; evidence of test or action taken and admissibility for criminal prosecution limited.--

(1) The use of a controlled substance as defined in chapter 893 or of alcohol by any occupational licensees officiating at or participating in a race or jai alai game is prohibited.

(2) The occupational licensees, by applying for and holding such licenses, are deemed to have given their consents to submit to an approved chemical test of their breath for the purpose of determining the alcoholic content of their blood and to a urine or blood test for the purpose of detecting the presence of controlled substances. Such tests shall only be conducted upon reasonable cause that a violation has occurred as shall be determined solely by the stewards at a horseracing meeting or the judges or board of judges at a dogtrack or jai alai meet. The failure to submit to such test may result in a suspension of the person's occupational license for a period of 10 days or until this section has been complied with, whichever is longer.

(a) If there was at the time of the test 0.05 percent or less by weight of alcohol in the person's blood, the person is presumed not to have been under the influence of alcoholic beverages to the extent that the person's normal faculties were impaired, and no action of any sort may be taken by the stewards, judges, or board of judges or the division.

(b) If there was at the time of the test an excess of 0.05 percent but less than 0.10 percent by weight of alcohol in the person's blood, that fact does not give rise to any presumption that the person was or was not under the influence of alcoholic beverages to the extent that the person's faculties were impaired, but the stewards, judges, or board of judges may consider that fact in determining whether or not the person will be allowed to officiate or participate in any given race or jai alai game.

(c) If there was at the time of the test 0.10 percent or more by weight of alcohol in the person's blood, that fact is prima facie evidence that the person was under the influence of alcoholic beverages to the extent that the person's normal faculties were impaired, and the stewards or judges may take action as set forth in this section, but the person may not officiate at or participate in any race or jai alai game on the day of such test.

All tests relating to alcohol must be performed in a manner substantially similar, or identical, to the provisions of s.

316.1934 and rules adopted pursuant to that section. Following a test of the urine or blood to determine the presence of a controlled substance as defined in chapter 893, if a controlled substance is found to exist, the stewards, judges, or board of judges may take such action as is permitted in this section.

(3) A violation of subsection (2) is subject to the following penalties:

(a) For the first violation, the stewards, judges, or board of judges may suspend a licensee for up to 10 days or in the alternative may impose a civil fine of up to \$500 in lieu of a suspension.

(b) For a second violation within 1 year after the first violation the stewards, judges, or board of judges may suspend a licensee for up to 30 days and in addition to or in lieu of suspension may impose a civil fine of up to \$2,000.

In lieu of or in addition to the foregoing penalties, the stewards, judges, or board of judges may require the licensee to participate in a drug or alcohol rehabilitation program and to be retested.

(c) If the second violation occurred within 1 year after the first violation, then upon the finding of a third violation of this section within 1 year after the second violation, the stewards, judges, or board of judges may suspend the licensee for up to 120 days; and the stewards, judges, or board of judges shall forward the results of the tests under paragraphs (a) and (b) and this violation to the division. In addition to the action taken by the stewards, judges, or board of judges, the division, after a hearing, may deny, suspend, or revoke the occupational license of the licensee and may impose a civil penalty of up to \$5,000 in addition to, or in lieu of, a suspension or revocation, it being the intent of the Legislature that the division shall have no authority over the enforcement of this section until a licensee has

committed the third violation within 2 years after the first violation.

(4) The provisions of s. 120.80(4)(a) apply to all actions taken by the stewards, judges, or board of judges pursuant to this section without regard to the limitation contained therein.

(5) This section does not apply to the possession and use of controlled or chemical substances that are prescribed as part of the care and treatment of a disease or injury by a practitioner licensed under chapter 458, chapter 459, chapter 464, or chapter 466.

(6) Evidence of any test or actions taken by the stewards, judges, or board of judges or the division under this section is inadmissible for any purpose in any court for criminal prosecution, it being the intent of the Legislature to provide a method and means by which the health, safety, and welfare of those officiating at or participating in a race meet or a jai alai game are sufficiently protected. However, this subsection does not prohibit any person so authorized from pursuing an independent investigation as a result of a ruling made by the stewards, judges, or board of judges, or the division.

History.--s. 26, ch. 92-348; s. 26, ch. 96-330; s. 249, ch. 96-410.

550.2415 Racing of animals under certain conditions prohibited; penalties; exceptions.--

(1)(a) The racing of an animal with any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent is prohibited. It is a violation of this section for a person to administer or cause to be administered any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent to an animal which will result in a positive test for such substance based on samples taken from the animal immediately prior to or immediately after the racing of that animal. Test results and the identities of the animals being tested and of their trainers and owners of record are confidential and exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution for 10 days after testing of all samples collected on a particular day has been completed and any positive test results derived from such samples have been reported to the director of the division or administrative action has been commenced.

(b) It is a violation of this section for a race-day specimen to contain a level of a naturally occurring substance which exceeds normal physiological concentrations. The division may adopt rules that specify normal physiological concentrations of naturally occurring substances in the natural untreated animal and rules that specify acceptable levels of environmental contaminants and trace levels of substances in test samples.

(c) The finding of a prohibited substance in a race-day specimen constitutes prima facie evidence that the substance was administered and was carried in the body of the animal while participating in the race.

(2) Administrative action may be taken by the division against an occupational licensee responsible pursuant to rule of the division for the condition of an animal that has been impermissibly medicated or drugged in violation of this section.

(3)(a) Upon the finding of a violation of this section, the division may revoke or suspend the license or permit of the violator or deny a license or permit to the violator; impose a fine against the violator in an amount not exceeding \$5,000; require the full or partial return of the purse, sweepstakes, and trophy of the race at issue; or impose against the violator any combination of such penalties. The finding of a violation of this section in no way prohibits a prosecution for criminal acts committed.

(b) The division, notwithstanding the provisions of chapter 120, may summarily suspend the license of an occupational licensee responsible under this section or division rule for the condition of a race animal if the division laboratory reports the presence of an impermissible substance in the animal or its blood, urine, saliva, or any other bodily fluid, either before a race in which the animal is entered or after a race the animal has run.

(c) If an occupational licensee is summarily suspended under this section, the division shall offer the licensee a prompt postsuspension hearing within 72 hours, at which the division shall produce the laboratory report and documentation which, on its face, establishes the responsibility of the occupational licensee. Upon production of the documentation, the occupational licensee has the burden of proving his or her lack of responsibility.

(d) Any proceeding for administrative action against a licensee or permittee, other than a proceeding under paragraph (c), shall be conducted in compliance with chapter 120.

(4) A prosecution pursuant to this section for a violation of this section must be commenced within 2 years after the violation was committed. Service of an administrative complaint marks the commencement of administrative action.

(5) The division shall implement a split-sample procedure for testing animals under this section.

(a) Upon finding a positive drug test result, the department shall notify the owner or trainer of the results. The owner may request that each urine and blood sample be split into a primary sample and a secondary (split) sample. Such splitting must be accomplished in the laboratory under rules approved by the division. Custody of both samples must remain with the division. However, upon request by the affected trainer or owner of the animal from which the

sample was obtained, the division shall send the split sample to an approved independent laboratory for analysis. The division shall establish standards and rules for uniform enforcement and shall maintain a list of at least five approved independent laboratories for an owner or trainer to select from in the event of a positive test sample.

(b) If the state laboratory's findings are not confirmed by the independent laboratory, no further administrative or disciplinary action under this section may be pursued. The division may adopt rules identifying substances that diminish in a blood or urine sample due to passage of time and that must be taken into account in applying this section.

(c) If the independent laboratory confirms the state laboratory's positive result, or if there is an insufficient quantity of the secondary (split) sample for confirmation of the state laboratory's positive result, the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120. For purposes of this subsection, the department shall in good faith attempt to obtain a sufficient quantity of the test fluid to allow both a primary test and a secondary test to be made.

(6)(a) It is the intent of the Legislature that animals that participate in races in this state on which pari-mutuel wagering is conducted and animals that are bred and trained in this state for racing be treated humanely, both on and off racetracks, throughout the lives of the animals.

(b) The division shall, by rule, establish the procedures for euthanizing greyhounds. However, a greyhound may not be put to death by any means other than by lethal injection of the drug sodium pentobarbital. A greyhound may not be removed from this state for the purpose of being destroyed.

(c) It is a violation of this chapter for an occupational licensee to train a greyhound using live or dead animals. A greyhound may not be taken from this state for the purpose of being trained through the use of live or dead animals.

(d) A conviction of cruelty to animals pursuant to s. 828.12 involving a racing animal constitutes a violation of this chapter.

(7) All moneys recovered for violations of this section shall be kept in a separate fund to be deposited into the Pari-mutuel Wagering Trust Fund and shall be used for research relating to the medication of racing animals. Such recovered moneys shall be supervised and used by the division to contract with a reputable college or school of veterinary medicine or its designee in accordance with this subsection.

(8) Under no circumstances may any medication be administered closer than 24 hours prior to the officially scheduled post time of a race except as provided for in this section.

(a) The division shall adopt rules setting conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage.

(b) The division shall adopt rules setting conditions for the use of prednisolone sodium succinate, but under no circumstances may furosemide or prednisolone sodium succinate be administered closer than 4 hours prior to the officially scheduled post time for the race.

(c) The division shall adopt rules setting conditions for the use of phenylbutazone and synthetic corticosteroids; in no case, except as provided in paragraph (b), shall these substances be given closer than 24 hours prior to the officially scheduled post time of a race. Oral corticosteroids are prohibited except when prescribed by a licensed veterinarian and reported to the division on forms prescribed by the division.

(d) Nothing in this section shall be interpreted to prohibit the use of vitamins, minerals, or naturally occurring substances so long as none exceeds the normal physiological concentration in a race day specimen.

(e) The division may, by rule, establish acceptable levels of permitted medications and shall select the appropriate biological specimens by which the administration of permitted medication is monitored.

(9)(a) Under no circumstances may any medication be administered within 24 hours before the officially scheduled post time of the race except as provided in this section.

(b) As an exception to this section, if the division first determines that the use of furosemide, phenylbutazone, or prednisolone sodium succinate in horses is in the best interest of racing, the division may adopt rules allowing such use. Any rules allowing the use of furosemide, phenylbutazone, or prednisolone sodium succinate in racing must set the conditions for such use. Under no circumstances may a rule be adopted which allows the administration of furosemide or prednisolone sodium succinate within 4 hours before the officially scheduled post time for the race. Under no circumstances may a rule be adopted which allows the administration of phenylbutazone or any other synthetic corticosteroid within 24 hours before the officially scheduled post time for the race. Any administration of synthetic corticosteroids is limited to parenteral routes. Oral administration of synthetic corticosteroids is expressly prohibited. If this paragraph is unconstitutional, it is severable from the remainder of this section.

(c) The division shall, by rule, establish acceptable levels of permitted medications and shall select the appropriate biological specimen by which the administration of permitted medications is monitored.

(10)(a) The division may conduct a postmortem examination of any animal that is injured at a permitted racetrack

while in training or in competition and that subsequently expires or is destroyed. The division may conduct a postmortem examination of any animal that expires while housed at a permitted racetrack, association compound, or licensed kennel or farm. Trainers and owners shall be requested to comply with this paragraph as a condition of licensure.

(b) The division may take possession of the animal upon death for postmortem examination. The division may submit blood, urine, other bodily fluid specimens, or other tissue specimens collected during a postmortem examination for testing by the division laboratory or its designee. Upon completion of the postmortem examination, the carcass must be returned to the owner or disposed of at the owner's option.

(11) The presence of a prohibited substance in an animal, found by the division laboratory in a bodily fluid specimen collected during the postmortem examination of the animal, which breaks down during a race constitutes a violation of this section.

(12) The cost of postmortem examinations, testing, and disposal must be borne by the division.

(13) The division shall adopt rules to implement this section. The rules may include a classification system for prohibited substances and a corresponding penalty schedule for violations.

(14) Except as specifically modified by statute or by rules of the division, the Uniform Classification Guidelines for Foreign Substances, revised February 14, 1995, as promulgated by the Association of Racing Commissioners International, Inc., is hereby adopted by reference as the uniform classification system for class IV and V medications.

(15) The division shall utilize only the thin layer chromatography (TLC) screening process to test for the presence of class IV and V medications in samples taken from racehorses except when thresholds of a class IV or class V medication have been established and are enforced by rule. Once a sample has been identified as suspicious for a class IV or class V medication by the TLC screening process, the sample will be sent for confirmation by and through additional testing methods. All other medications not classified by rule as a class IV or class V agent shall be subject to all forms of testing available to the division.

(16) The division shall implement by rule medication levels finalized by the University of Florida developed pursuant to the Pharmacokinetic and Clearance Study Agreement by and between the Florida Department of Business and Professional Regulation Division of Pari-mutuel Wagering and the University of Florida College of Veterinary Medicine. Research on a drug level is finalized when the University of Florida College of Veterinary

Medicine provides written notification to the division that it has completed its research on a particular drug pursuant to the agreement and when the College of Veterinary Medicine provides a final report of its findings, conclusions, and recommendations to the division.

(17) The testing medium for phenylbutazone in horses shall be serum, and the division may collect up to six full 15-milliliter blood tubes for each horse being sampled.

History.--s. 27, ch. 92-348; s. 28, ch. 93-120; s. 5, ch. 93-123; s. 1, ch. 95-205; s. 9, ch. 96-364; s. 344, ch. 96-406; s. 1174, ch. 97-103.

550.255 Penalty for conducting unauthorized race meeting.--

Every race meeting at which racing is conducted for any stake, purse, prize, or premium, except as allowed by this chapter, is prohibited and declared to be a public nuisance, and every person acting or aiding therein or conducting, or attempting to conduct, racing in this state not in conformity with this chapter is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 29, ch. 92-348.
550.2614 Distribution of certain funds to a horsemen's association.--

(1) Each licensee that holds a permit for thoroughbred horse racing in this state shall deduct from the purses required by s. 550.2625, an amount of money equal to 1 percent of the total purse pool and shall pay that amount to a horsemen's association representing the majority of the thoroughbred racehorse owners and trainers for its use in accordance with the stated goals of its articles of association filed with the Department of State.

(2) The funds are payable to the horsemen's association only upon presentation of a sworn statement by the officers of the association that the horsemen's association represents a majority of the owners and trainers of thoroughbred horses stabled in the state.

(3) Upon receiving a state license, each thoroughbred owner and trainer shall receive automatic membership in the horsemen's association as defined in subsection (1) and be counted on the membership rolls of that association, unless, within 30 calendar days after receipt of license from the state, the individual declines membership in writing, to the association as defined in subsection (1).

(4) The division shall adopt rules to facilitate the orderly transfer of funds in accordance with this section. The division shall also monitor the membership rolls of the horsemen's association to ensure that complete, accurate, and timely listings are maintained for the purposes specified in this section.

History.--s. 30, ch. 92-348; s. 9, ch. 95-390; s. 31, ch. 97-98.

550.26165 Breeders' awards.--

(1) The purpose of this section is to encourage the agricultural activity of breeding racehorses in this state. Moneys from breaks and uncashed tickets from pari-mutuel wagering and horseraces are to be used for awards of up to 20 percent of the announced gross purse at any race to breeders of registered Florida-bred horses winning horseraces and for similar awards to the owners of stallions who sired Florida-bred horses winning stakes races, if the stallions are registered as Florida stallions standing in this state. Awards for thoroughbred races are to be paid through the Florida Thoroughbred Breeders' Association, and awards for standardbred races are to be paid through the Florida Standardbred Breeders and Owners Association. The moneys for thoroughbred breeders' awards will come from the 0.75 percent of handle for thoroughbred races conducted, received, broadcast, or simulcast under this chapter as provided in s. 550.2625(3). The moneys for quarter horse and harness breeders' awards will come from the breaks and uncashed tickets on live quarter horse and harness racing performances and 1 percent of handle on intertrack wagering. The breeders' awards shall be paid to the respective breeders' associations by the permitholders conducting the races. The awards are to be given at a uniform rate to all winners of the awards and may not be less than 15 percent of the announced gross purse if funds are available.

(2) Each breeders' association shall develop a plan each year that will provide for a uniform rate of payment and procedure for payment. The plan may set a cap on winnings and may limit, exclude, or defer payments to certain classes of races, such as the Florida stallion stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Priority shall be placed on imposing such restrictions in lieu of allowing the uniform rate to be less than 15 percent of the total purse payment. The plan must provide for the maximum possible payments within revenues.

(3) Breeders' associations shall submit their plans to the division at least 60 days before the beginning of the payment year. The payment year may be a calendar year or any 12-month period, but once established, the yearly base may not be changed except for compelling reasons. Once a plan is approved, the division may not allow the plan to be amended during the year, except for the most compelling reasons.

(4) It is not intended that the funds in the breeders' association special payment account be allowed to grow excessively, although there is no intent to require that payment each year equal receipts each year. The rate each year shall be adjusted to compensate for changing revenues from year to year.

History.--s. 31, ch. 92-348.

550.2625 Horseracing; minimum purse requirement, Florida breeders' and owners' awards.--

(1) The purse structure and the availability of breeder awards are important factors in attracting the entry of well-bred horses in racing meets in this state which in turn helps to produce maximum racing revenues for the state and the counties.

(2) Each permitholder conducting a horserace meet is required to pay from the takeout withheld on pari-mutuel pools a sum for purses in accordance with the type of race performed.

(a) A permitholder conducting a thoroughbred horse race meet under this chapter must pay from the takeout withheld a sum not less than 7.5 percent of all contributions to pari-mutuel pools conducted during the race meet as purses. In addition to the 7.5 percent minimum purse payment, permitholders conducting live thoroughbred performances shall be required to pay as additional purses .625 percent of live handle for performances conducted during the period beginning on January 3 and ending March 16; .225 percent for performances conducted during the period beginning March 17 and ending May 22; and .85 percent for performances conducted during the period beginning May 23 and ending January 2. Except that any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than \$34 million is not subject to this additional purse payment. A permitholder authorized to conduct thoroughbred racing may withhold from the handle an additional amount equal to 1 percent on exotic wagering for use as owners' awards, and may withhold from the handle an amount equal to 2 percent on exotic wagering for use as overnight purses. No permitholder may withhold in excess of 20 percent from the handle without withholding the amounts set forth in this subsection.

(b)1. A permitholder conducting a harness horse race meet under this chapter must pay to the purse pool from the takeout withheld a purse requirement that totals an amount not less than 8 percent of all contributions to pari-mutuel pools conducted during the race meet. An amount not less than 7.5 percent of the total handle shall be paid from this purse pool as purses.

2. An amount not to exceed 0.5 percent of the total handle on all harness horse races that are subject to the purse requirement of subparagraph 1., must be available for use to provide medical, dental, surgical, life, funeral, or disability insurance benefits for occupational licensees who work at tracks in this state at which harness horse races are conducted. Such insurance benefits must be paid from the purse pool specified in subparagraph 1. An annual plan for payment of insurance benefits from the purse pool, including qualifications for eligibility, must be submitted by the

Florida Standardbred Breeders and Owners Association for approval to the division. An annual report of the implemented plan shall be submitted to the division. All records of the Florida Standardbred Breeders and Owners

Association concerning the administration of the plan must be available for audit at the discretion of the division to

determine that the plan has been implemented and administered as authorized. If the division finds that the Florida

Standardbred Breeders and Owners Association has not complied with the provisions of this section, the division

may order the association to cease and desist from administering the plan and shall appoint the division as temporary

administrator of the plan until the division reestablishes administration of the plan with the association.

(c) A permitholder conducting a quarter horse race meet under this chapter shall pay from the takeout withheld a

sum not less than 6 percent of all contributions to pari-mutuel pools conducted during the race meet as purses.

(d) The division shall adopt reasonable rules to ensure the timely and accurate payment of all amounts withheld by

horserace permitholders regarding the distribution of purses, owners' awards, and other amounts collected for

payment to owners and breeders. Each permitholder that fails to pay out all moneys collected for payment to owners

and breeders shall, within 10 days after the end of the meet during which the permitholder underpaid purses, deposit

an amount equal to the underpayment into a separate interest-bearing account to be distributed to owners and

breeders in accordance with division rules.

(e) An amount equal to 8.5 percent of the purse account generated through intertrack wagering and interstate

simulcasting will be used for Florida Owners' Awards as set forth in subsection (3). Any thoroughbred permitholder

with an average blended takeout which does not exceed 20 percent and with an average daily purse distribution

excluding sponsorship, entry fees, and nominations exceeding \$225,000 is exempt from the provisions of this

paragraph.

(3) Each horseracing permitholder conducting any thoroughbred race under this chapter, including any intertrack

race taken pursuant to ss. 550.615-550.6305 or any interstate simulcast taken pursuant to s. 550.3551(3) shall pay

a sum equal to 0.75 percent on all pari-mutuel pools conducted during any such race for the payment of breeders'

and stallion awards as authorized in this section. This subsection also applies to all Breeder's Cup races conducted

outside this state taken pursuant to s. 550.3551(3). On any race originating live in this state which is broadcast

out-of-state to any location at which wagers are accepted pursuant to s. 550.3551(2), the host track is required to

pay 3.3 percent of the gross revenue derived from such out-of-state broadcasts as breeders' and stallion awards. The

Florida Thoroughbred Breeders' Association is authorized to receive these payments from the permitholders and make payments of awards earned. The Florida Thoroughbred Breeders' Association has the right to withhold up to 10 percent of the permitholder's payments under this section as a fee for administering the payments of awards and for general promotion of the industry. The permitholder shall remit these payments to the Florida Thoroughbred Breeders' Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the division as prescribed by the division. With the exception of the 10-percent fee, the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account, and such payments together with any interest earned shall be used exclusively for the payment of breeders' awards and stallion awards in accordance with the following provisions:

(a) The breeder of each Florida-bred thoroughbred horse winning a thoroughbred horse race is entitled to an award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(b) The owner or owners of the sire of a Florida-bred thoroughbred horse that wins a stakes race is entitled to a stallion award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(c) In order for a breeder of a Florida-bred thoroughbred horse to be eligible to receive a breeder's award, the horse winning the race must have been registered as a Florida-bred horse with the Florida Thoroughbred Breeders' Association, and the Jockey Club certificate for the winning horse must show that the winner has been duly registered as a Florida-bred horse as evidenced by the seal and proper serial number of the Florida Thoroughbred Breeders' Association registry. The Florida Thoroughbred Breeders' Association shall be permitted to charge the registrant a reasonable fee for this verification and registration.

(d) In order for an owner of the sire of a thoroughbred horse winning a stakes race to be eligible to receive a stallion award, the stallion must have been registered with the Florida Thoroughbred Breeders' Association, and the breeding of the registered Florida-bred horse must have occurred in this state. The stallion must be standing permanently in this state 1 during the period of time between February 1 and June 15 of each year or, if the stallion is dead, must have stood permanently in this state for a period of not less than 1 year immediately prior to its death. The removal of a stallion from this state during the period of time between February 1 2 and June 15 of any year for any reason, other than exclusively for prescribed medical treatment, as approved by the Florida Thoroughbred Breeders'

Association, renders the owner or owners of the stallion ineligible to receive a stallion award under any circumstances for offspring sired prior to removal; however, if a removed stallion is returned to this state, all offspring sired subsequent to the return make the owner or owners of the stallion eligible for the stallion award but only for those offspring sired subsequent to such return to this state. The Florida Thoroughbred Breeders' Association shall maintain complete records showing the date the stallion arrived in this state for the first time, whether or not the stallion remained in the state permanently, the location of the stallion, and whether the stallion is still standing in this state and complete records showing awards earned, received, and distributed. The association may charge the owner, owners, or breeder a reasonable fee for this service.

(e) A permitholder conducting a thoroughbred horse race under the provisions of this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Thoroughbred Breeders' Association such information relating to the thoroughbred horses winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards and stallion awards.

(f) The Florida Thoroughbred Breeders' Association shall maintain complete records showing the starters and winners in all races conducted at thoroughbred tracks in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(g) The Florida Thoroughbred Breeders' Association shall annually establish a uniform rate and procedure for the payment of breeders' and stallion awards and shall make breeders' and stallion award payments in strict compliance with the established uniform rate and procedure plan. The plan may set a cap on winnings and may limit, exclude, or defer payments to certain classes of races, such as the Florida stallion stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Such plan must include proposals for the general promotion of the industry. Priority shall be placed upon imposing such restrictions in lieu of allowing the uniform rate to be less than 15 percent of the total purse payment. The uniform rate and procedure plan must be approved by the division before implementation. In the absence of an approved plan and procedure, the authorized rate for breeders' and stallion awards is 15 percent of the announced gross purse for each race. Such purse must include nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race. If the funds in the account for payment of breeders' and stallion awards are not sufficient to meet all earned breeders' and stallion awards, those breeders and stallion owners not receiving payments have first call on any subsequent receipts in that or any subsequent year.

(h) The Florida Thoroughbred Breeders' Association shall keep accurate records showing receipts and disbursements of such payments and shall annually file a full and complete report to the division showing such receipts and disbursements and the sums withheld for administration. The division may audit the records and accounts of the Florida Thoroughbred Breeders' Association to determine that payments have been made to eligible breeders and stallion owners in accordance with this section.

(i) If the division finds that the Florida Thoroughbred Breeders' Association has not complied with any provision of this section, the division may order the association to cease and desist from receiving funds and administering funds received under this section. If the division enters such an order, the permitholder shall make the payments authorized in this section to the division for deposit into the Pari-mutuel Wagering Trust Fund; and any funds in the Florida Thoroughbred Breeders' Association account shall be immediately paid to the Division of Pari-mutuel Wagering for deposit to the Pari-mutuel Wagering Trust Fund. The division shall authorize payment from these funds to any breeder or stallion owner entitled to an award that has not been previously paid by the Florida Thoroughbred Breeders' Association in accordance with the applicable rate.

(4) Each permitholder conducting a harness horse race under this chapter shall pay a sum equal to the breaks on all pari-mutuel pools conducted during that race for the payment of breeders' awards, stallion awards, and stallion stakes and for additional expenditures as authorized in this section. The Florida Standardbred Breeders and Owners Association is authorized to receive these payments from the permitholders and make payments as authorized in this subsection. The Florida Standardbred Breeders and Owners Association has the right to withhold up to 10 percent of the permitholder's payments under this section and under s. 550.2633 as a fee for administering these payments. The permitholder shall remit these payments to the Florida Standardbred Breeders and Owners Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the division as prescribed by the division. With the exception of the 10-percent fee for administering the payments and the use of the moneys authorized by paragraph (j), the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account; and such payments together with any interest earned shall be allocated for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and the general promotion of owning and breeding of, Florida-bred standardbred horses. Payment of breeders' awards and stallion awards shall be made in accordance with the following provisions:

(a) The breeder of each Florida-bred standardbred horse winning a harness horse race is entitled to an award of

up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(b) The owner or owners of the sire of a Florida-bred standardbred horse that wins a stakes race is entitled to a stallion award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(c) In order for a breeder of a Florida-bred standardbred horse to be eligible to receive a breeder's award, the horse winning the race must have been registered as a Florida-bred horse with the Florida Standardbred Breeders and Owners Association and a registration certificate under seal for the winning horse must show that the winner has been duly registered as a Florida-bred horse as evidenced by the seal and proper serial number of the United States Trotting Association registry. The Florida Standardbred Breeders and Owners Association shall be permitted to charge the registrant a reasonable fee for this verification and registration.

(d) In order for an owner of the sire of a standardbred horse winning a stakes race to be eligible to receive a stallion award, the stallion must have been registered with the Florida Standardbred Breeders and Owners Association, and the breeding of the registered Florida-bred horse must have occurred in this state. The stallion must be standing permanently in this state or, if the stallion is dead, must have stood permanently in this state for a period of not less than 1 year immediately prior to its death. The removal of a stallion from this state for any reason, other than exclusively for prescribed medical treatment, renders the owner or the owners of the stallion ineligible to receive a stallion award under any circumstances for offspring sired prior to removal; however, if a removed stallion is returned to this state, all offspring sired subsequent to the return make the owner or owners of the stallion eligible for the stallion award but only for those offspring sired subsequent to such return to this state. The Florida Standardbred Breeders and Owners Association shall maintain complete records showing the date the stallion arrived in this state for the first time, whether or not the stallion remained in the state permanently, the location of the stallion, and whether the stallion is still standing in this state and complete records showing awards earned, received, and distributed. The association may charge the owner, owners, or breeder a reasonable fee for this service.

(e) A permitholder conducting a harness horse race under this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Standardbred Breeders and Owners Association such information relating to the horse winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards and stallion awards.

(f) The Florida Standardbred Breeders and Owners Association shall maintain complete records showing the starters and winners in all races conducted at harness horse racetracks in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(g) The Florida Standardbred Breeders and Owners Association shall annually establish a uniform rate and procedure for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred standardbred horses and shall make award payments and allocations in strict compliance with the established uniform rate and procedure. The plan may set a cap on winnings, and may limit, exclude, or defer payments to certain classes of races, such as the Florida Breeders' stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Priority shall be placed on imposing such restrictions in lieu of allowing the uniform rate allocated to payment of breeder and stallion awards to be less than 10 percent of the total purse payment. The uniform rate and procedure must be approved by the division before implementation. In the absence of an approved plan and procedure, the authorized rate for breeders' and stallion awards is 10 percent of the announced gross purse for each race. Such purse must include nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race. If the funds in the account for payment of breeders' and stallion awards are not sufficient to meet all earned breeders' and stallion awards, those breeders and stallion owners not receiving payments have first call on any subsequent receipts in that or any subsequent year.

(h) The Florida Standardbred Breeders and Owners Association shall keep accurate records showing receipts and disbursements of such payments and shall annually file a full and complete report to the division showing such receipts and disbursements and the sums withheld for administration. The division may audit the records and accounts of the Florida Standardbred Breeders and Owners Association to determine that payments have been made to eligible breeders, stallion owners, and owners of Florida-bred standardbred horses in accordance with this section.

(i) If the division finds that the Florida Standardbred Breeders and Owners Association has not complied with any provision of this section, the division may order the association to cease and desist from receiving funds and administering funds received under this section and under s. 550.2633. If the division enters such an order, the permit holder shall make the payments authorized in this section and s. 550.2633 to the division for deposit into the

Pari-mutuel Wagering Trust Fund; and any funds in the Florida Standardbred Breeders and Owners Association account shall be immediately paid to the division for deposit to the Pari-mutuel Wagering Trust Fund. The division shall authorize payment from these funds to any breeder, stallion owner, or owner of a Florida-bred standardbred horse entitled to an award that has not been previously paid by the Florida Standardbred Breeders and Owners Association in accordance with the applicable rate.

(j) The board of directors of the Florida Standardbred Breeders and Owners Association may authorize the release of up to 25 percent of the funds available for breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred standardbred horses to be used for purses for, and promotion of, Florida-bred standardbred horses at race meetings at which there is no pari-mutuel wagering unless, and to the extent that, such release would render the funds available for such awards insufficient to pay the breeders' and stallion awards earned pursuant to the annual plan of the association. Any such funds so released and used for purses are not considered to be an "announced gross purse" as that term is used in paragraphs (a) and (b), and no breeders' or stallion awards, stallion stakes, or owner awards are required to be paid for standardbred horses winning races in meetings at which there is no pari-mutuel wagering. The amount of purses to be paid from funds so released and the meets eligible to receive such funds for purses must be approved by the board of directors of the Florida Standardbred Breeders and Owners Association.

(5)(a) Except as provided in subsections (7) and (8), each permitholder conducting a quarter horse race meet under this chapter shall pay a sum equal to the breaks plus a sum equal to 1 percent of all pari-mutuel pools conducted during that race for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state as authorized in this section. The Florida Quarter Horse Breeders and Owners Association is authorized to receive these payments from the permitholders and make payments as authorized in this subsection. The Florida Quarter Horse Breeders and Owners Association, Inc., referred to in this chapter as the Florida Quarter Horse Breeders and Owners Association, has the right to withhold up to 10 percent of the permitholder's payments under this section and under s. 550.2633 as a fee for administering these payments. The permitholder shall remit these payments to the Florida Quarter Horse Breeders and Owners Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the division as prescribed by the division. With the exception of the 5-percent fee for administering the payments, the moneys paid by the permitholders shall be maintained in a separate, interest-bearing

account.

(b) The Florida Quarter Horse Breeders and Owners Association shall use these funds solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state and for general administration of the Florida Quarter Horse Breeders and Owners Association, Inc., in this state.

(c) In order for an owner or breeder of a Florida-bred quarter horse to be eligible to receive an award, the horse winning a race must have been registered as a Florida-bred horse with the Florida Quarter Horse Breeders and Owners Association and a registration certificate under seal for the winning horse must show that the winning horse has been duly registered prior to the race as a Florida-bred horse as evidenced by the seal and proper serial number of the Florida Quarter Horse Breeders and Owners Association registry. The Department of Agriculture and Consumer Services is authorized to assist the association in maintaining this registry. The Florida Quarter Horse Breeders and Owners Association may charge the registrant a reasonable fee for this verification and registration. Any person who registers unqualified horses or misrepresents information in any way shall be denied any future participation in breeders' awards, and all horses misrepresented will no longer be deemed to be Florida-bred.

(d) A permitholder conducting a quarter horse race under a quarter horse permit under this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Quarter Horse Breeders and Owners Association such information relating to the horse winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards under this section.

(e) The Florida Quarter Horse Breeders and Owners Association shall maintain complete records showing the starters and winners in all quarter horse races conducted under quarter horse permits in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(f) The Florida Quarter Horse Breeders and Owners Association shall keep accurate records showing receipts and disbursements of payments made under this section and shall annually file a full and complete report to the division showing such receipts and disbursements and the sums withheld for administration. The division may audit the records and accounts of the Florida Quarter Horse Breeders and Owners Association to determine that payments have been made in accordance with this section.

(g) The Florida Quarter Horse Breeders and Owners Association shall annually establish a plan for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding Florida-bred racing quarter horses and shall make award payments and allocations in strict compliance with the annual plan. The annual plan must be approved by the division before implementation. If the funds in the account for payment of purses and prizes are not sufficient to meet all purses and prizes to be awarded, those breeders and owners not receiving payments have first call on any subsequent receipts in that or any subsequent year.

(h) If the division finds that the Florida Quarter Horse Breeders and Owners Association has not complied with any provision of this section, the division may order the association to cease and desist from receiving funds and administering funds received under this section and s. 550.2633. If the division enters such an order, the permitholder shall make the payments authorized in this section and s. 550.2633 to the division for deposit into the Pari-mutuel Wagering Trust Fund, and any funds in the Florida Quarter Horse Breeders and Owners Association account shall be immediately paid to the division for deposit to the Pari-mutuel Wagering Trust Fund. The division shall authorize payment from these funds to any breeder or owner of a quarter horse entitled to an award that has not been previously paid by the Florida Quarter Horse Breeders and Owners Association in accordance with this section.

(6)(a) The takeout may be used for the payment of awards to owners of registered Florida-bred horses placing first in a claiming race, an allowance race, a maiden special race, or a stakes race in which the announced purse, exclusive of entry and starting fees and added moneys, does not exceed \$40,000.

(b) The permitholder shall determine for each qualified race the amount of the owners' award for which a registered Florida-bred horse will be eligible. The amount of the available owners' award shall be established in the same manner in which purses are established and shall be published in the condition book for the period during which the race is to be conducted. No single award may exceed 50 percent of the gross purse for the race won.

(c) If the moneys generated under paragraph (a) during the meet exceed the owners' awards earned during the meet, the excess funds shall be held in a separate interest-bearing account, and the total interest and principal shall be used to increase the owners' awards during the permitholder's next meet.

(d) Breeders' awards authorized by subsections (3) and (4) may not be paid on owners' awards.

(7)(a) Each permitholder that conducts race meets under this chapter and runs Appaloosa races shall pay to the division a sum equal to the breaks plus a sum equal to 1 percent of the total contributions to each pari-mutuel pool

conducted on each Appaloosa race. Such payments shall be remitted to the division by the 5th day of each calendar month for sums accruing during the preceding calendar month.

(b) The division shall deposit these collections to the credit of the Florida Quarter Horse Racing Promotion Trust Fund in a special account to be known as the "Florida Appaloosa Racing Promotion Fund." The Department of Agriculture and Consumer Services shall administer the funds and adopt suitable and reasonable rules for the administration thereof. The moneys in the Florida Appaloosa Racing Promotion Fund shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing Appaloosas in this state; and such moneys may not be used to defray any expense of the Department of Agriculture and Consumer Services in the administration of this chapter, except that the moneys generated by Appaloosa registration fees received pursuant to s. 570.381 may be used as provided in 3paragraph (5)(b) of that section.

(8)(a) Each permitholder that conducts race meets under this chapter and runs Arabian horse races shall pay to the division a sum equal to the breaks plus a sum equal to 1 percent of the total contributions to each pari-mutuel pool conducted on each Arabian horse race. Such payments shall be remitted to the division by the 5th day of each calendar month for sums accruing during the preceding calendar month.

(b) The division shall deposit these collections to the credit of the Florida Quarter Horse Racing Promotion Trust Fund in a special account to be known as the "Florida Arabian Horse Racing Promotion Fund." The Department of Agriculture and Consumer Services shall administer the funds and adopt suitable and reasonable rules for the administration thereof. The moneys in the Florida Arabian Horse Racing Promotion Fund shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing Arabian horses in this state; and such moneys may not be used to defray any expense of the Department of Agriculture and Consumer Services in the administration of this chapter, except that the moneys generated by Arabian horse registration fees received pursuant to s. 570.382 may be used as provided in 4paragraph (6)(b) of that section.

History.--s. 32, ch. 92-348; s. 4, ch. 93-123; s. 10, ch. 95-390; ss. 10, 26, ch. 96-364; ss. 5, 6, ch. 98-190; ss. 1, 6, ch. 98-217.

1Note.--As amended by s. 5, ch. 98-190. The amendment to paragraph (3)(d) by s. 1, ch. 98-217, uses the phrase ". . . between February 1st through June 15th of each year"

2Note.--As amended by s. 5, ch. 98-190. The amendment by s. 1, ch. 98-217, used the word "through" instead of the word "and."

3Note.--Substituted by the editors for a reference to paragraph (4)(b) of s. 570.381, which does not exist; paragraph (5)(b) relates to Appaloosa registration fees.

4Note.--Section 570.382(6)(b) does not exist; paragraph (5)(b) relates to Arabian horse registration fees.

550.2633 Horseracing; distribution of abandoned interest in or contributions to pari-mutuel pools.--

(1) Except as provided in subsection (3), all moneys or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any horseracing permit holder authorized to conduct pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, when the rightful owner or owners thereof have made no claim or demand for such money or other property within that period, is hereby declared to have escheated to or to escheat to, and to have become the property of, the state.

(2) All moneys or other property which has escheated to and become the property of the state as provided herein and which is held by a permit holder authorized to conduct pari-mutuel pools in this state shall be paid annually by the permit holder to the recipient designated in this subsection within 60 days after the close of the race meeting of the permit holder. Section 550.1645 notwithstanding, such moneys shall be paid by the permit holder as follows:

(a) Funds from any harness horse races shall be paid to the Florida Standardbred Breeders and Owners Association and shall be used for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred standardbred horses, as provided for in s. 550.2625.

(b) Except as provided in paragraphs (c) and (d), funds from quarter horse races shall be paid to the Florida Quarter Horse Breeders and Owners Association and shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state, as provided for in s. 550.2625.

(c) Funds for Appaloosa races conducted under a quarter horse racing permit shall be deposited into the Florida Quarter Horse Racing Promotion Trust Fund in a special account to be known as the "Florida Appaloosa Racing Promotion Fund" and shall be used for the payment of breeders' awards and stallion awards as provided for in s. 570.381.

(d) Funds for Arabian horse races conducted under a quarter horse racing permit shall be deposited into the Florida Quarter Horse Racing Promotion Trust Fund in a special account to be known as the "Florida Arabian Horse Racing Promotion Fund" and shall be used for the payment of breeders' awards and stallion awards as provided for in s. 570.382.

(3) Notwithstanding any other provision of law, all moneys described in s. 550.263(2)(a), Florida Statutes 1991, which escheated to the state under s. 550.263(1), Florida Statutes 1991, during the period beginning October 1, 1992, and ending on December 16, 1992, shall be paid as provided in paragraph (2)(a).

(4) Notwithstanding any other provision of law, all moneys described in s. 550.263(3), Florida Statutes 1991, which escheated to the state under s. 550.263(1), Florida Statutes 1991, during the period beginning August 24, 1992, and ending on December 16, 1992, shall be paid as provided in subsection (5).

(5) Uncashed tickets and breaks on live racing conducted by thoroughbred permitholders shall be retained by the permitholder conducting the live race.

History.--s. 33, ch. 92-348.

550.26352 Breeders' Cup Meet; pools authorized; conflicts; taxes; credits; transmission of races; rules; application.--

(1) Notwithstanding any provision of this chapter to the contrary, there is hereby created a special thoroughbred race meet which shall be designated as the "Breeders' Cup Meet." The Breeders' Cup Meet shall be conducted at the facility of the Florida permitholder selected by Breeders' Cup Limited to conduct the Breeders' Cup Meet. The Breeders' Cup Meet shall consist of 3 days: the day on which the Breeders' Cup races are conducted, the preceding day, and the subsequent day. Upon the selection of the Florida permitholder as host for the Breeders' Cup Meet and application by the selected permitholder, the division shall issue a license to the selected permitholder to operate the Breeders' Cup Meet. Notwithstanding s. 550.09515(2)(a), the Breeders' Cup Meet may be conducted on dates which the selected permitholder is not otherwise authorized to conduct a race meet.

(2) The permitholder conducting the Breeders' Cup Meet is specifically authorized to create pari-mutuel pools during the Breeders' Cup Meet by accepting pari-mutuel wagers on the thoroughbred horse races run during said meet.

(3) If the permitholder conducting the Breeders' Cup Meet is located within 35 miles of one or more permitholders scheduled to conduct a thoroughbred race meet on any of the 3 days of the Breeders' Cup Meet, then

operation on any of those 3 days by the other permitholders is prohibited. As compensation for the loss of racing days caused thereby, such operating permitholders shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515. This credit shall be in an amount equal to the operating loss determined to have been suffered by the operating permitholders as a result of not operating on the prohibited racing days, but shall not exceed a total of \$500,000. The determination of the amount to be credited shall be made by the division upon application by the operating permitholder. The tax credits provided in this subsection shall not be available unless an operating permitholder is required to close a bona fide meet consisting in part of no fewer than 10 scheduled performances in the 15 days immediately preceding or 10 scheduled performances in the 15 days immediately following the Breeders' Cup Meet. Such tax credit shall be in lieu of any other compensation or consideration for the loss of racing days. There shall be no replacement or makeup of any lost racing days.

(4) Notwithstanding any provision of ss. 550.0951 and 550.09515, the permitholder conducting the Breeders' Cup Meet shall pay no taxes on the handle included within the pari-mutuel pools of said permitholder during the Breeders' Cup Meet.

(5) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed \$800,000 and shall be utilized by the permitholder to pay the purses offered by the permitholder during the Breeders' Cup Meet in excess of the purses which the permitholder is otherwise required by law to pay. The amount to be credited shall be determined by the division upon application of the permitholder which is subject to audit by the division.

(6) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed \$800,000 and shall be utilized by the permitholder for such capital improvements and extraordinary expenses as may be necessary for operation of the Breeders' Cup Meet. The amount to be credited shall be determined by the division upon application of the permitholder which is subject to audit by the division.

(7) The permitholder conducting the Breeders' Cup Meet shall be exempt from the payment of purses and other payments to horsemen on all on-track, intertrack, interstate, and international wagers or rights fees or payments

arising therefrom for all races for which the purse is paid or supplied by Breeders' Cup Limited. The permitholder conducting the Breeders' Cup Meet shall not, however, be exempt from breeders' awards payments for on-track and intertrack wagers as provided in ss. 550.2625(3) and 550.625(2)(a) for races in which the purse is paid or supplied by Breeders' Cup Limited.

(8)(a) Pursuant to s. 550.3551(2), the permitholder conducting the Breeders' Cup Meet is authorized to transmit broadcasts of the races conducted during the Breeders' Cup Meet to locations outside of this state for wagering purposes. The division may approve broadcasts to pari-mutuel permitholders and other betting systems authorized under the laws of any other state or country. Wagers accepted by any out-of-state pari-mutuel permitholder or betting system on any races broadcast under this section may be, but are not required to be, commingled with the pari-mutuel pools of the permitholder conducting the Breeders' Cup Meet. The calculation of any payoff on national pari-mutuel pools with commingled wagers may be performed by the permitholder's totalisator contractor at a location outside of this state. Pool amounts from wagers placed at pari-mutuel facilities or other betting systems in foreign countries before being commingled with the pari-mutuel pool of the Florida permitholder conducting the Breeders' Cup Meet shall be calculated by the totalisator contractor and transferred to the commingled pool in United States currency in cycles customarily used by the permitholder. Pool amounts from wagers placed at any foreign pari-mutuel facility or other betting system shall not be commingled with a Florida pool until a determination is made by the division that the technology utilized by the totalisator contractor is adequate to assure commingled pools will result in the calculation of accurate payoffs to Florida bettors. Any totalisator contractor at a location outside of this state shall comply with the provisions of s. 550.495 relating to totalisator licensing.

(b) The permitholder conducting the Breeders' Cup Meet is authorized to transmit broadcasts of the races conducted during the Breeders' Cup Meet to other pari-mutuel facilities located in this state for wagering purposes; however, the permitholder conducting the Breeders' Cup Meet shall not be required to transmit broadcasts to any pari-mutuel facility located within 25 miles of the facility at which the Breeders' Cup Meet is conducted and, further, shall not transmit broadcasts to any pari-mutuel facility located within 25 miles of the facility at which the Breeders' Cup Meet is conducted without the consent of all operating permitholders in the market area. Wagers accepted by all pari-mutuel facilities located in the state on any races broadcast under this section shall be included in the pari-mutuel pools of the permitholder conducting the Breeders' Cup Meet.

(9) The exemption from the tax credits provided in subsections (5) and (6) shall not be granted and shall not be

claimed by the permitholder until an audit is completed by the division. The division is required to complete the audit within 30 days of receipt of the necessary documentation from the permitholder to verify the permitholder's claim for tax credits. If the documentation submitted by the permitholder is incomplete or is insufficient to document the permitholder's claim for tax credits, the division may request such additional documentation as is necessary to complete the audit. Upon receipt of the division's written request for additional documentation, the 30-day time limitation will commence anew.

(10) The division is authorized to adopt such rules as are necessary to facilitate the conduct of the Breeders' Cup Meet as authorized in this section. Included within this grant of authority shall be the adoption of rules regarding the overall conduct of racing during the Breeders' Cup Meet so as to ensure the integrity of the races, licensing for all participants, special stabling and training requirements for foreign horses, commingling of pari-mutuel pools, and audit requirements for tax credits and other benefits.

(11) Any dispute between the division and any permitholder regarding the tax credits authorized under subsection (3), subsection (5), or subsection (6) shall be determined by a hearing officer of the Division of Administrative Hearings under the provisions of s. 120.57(1).

(12) The provisions of this section shall prevail over any conflicting provisions of this chapter.

History.--s. 3, ch. 93-123; s. 11, ch. 96-364.

550.2704 Jai Alai Tournament of Champions Meet.--

(1) Notwithstanding any provision of this chapter, there is hereby created a special jai alai meet which shall be designated as the "Jai Alai Tournament of Champions Meet" and which shall be hosted by the Florida jai alai permitholders selected by the National Association of Jai Alai Frontons, Inc., to conduct such meet. The meet shall consist of three qualifying performances and a final performance, each of which is to be conducted on different days. Upon the selection of the Florida permitholders for the meet, and upon application by the selected permitholders, the Division of Pari-mutuel Wagering shall issue a license to each of the selected permitholders to operate the meet. The meet may be conducted during a season in which the permitholders selected to conduct the meet are not otherwise authorized to conduct a meet. Notwithstanding anything herein to the contrary, any Florida permitholder who is to conduct a performance which is a part of the Jai Alai Tournament of Champions Meet shall not be required to apply for the license for said meet if it is to be run during the regular season for which such permitholder has a license.

(2) Qualifying performances and the final performance of the tournament shall be held at different locations throughout the state, and the permitholders selected shall be under different ownership to the extent possible.

(3) Notwithstanding any provision of this chapter, each of the permitholders licensed to conduct performances comprising the Jai Alai Tournament of Champions Meet shall pay no taxes on handle under s. 550.0951 or s. 550.09511 for any performance conducted by such permitholder as part of the Jai Alai Tournament of Champions Meet. The provisions of this subsection shall apply to a maximum of four performances.

(4) The Jai Alai Tournament of Champions Meet permitholders shall also receive a credit against the taxes, otherwise due and payable under s. 550.0951 or s. 550.09511, generated during said permitholders' current regular meet. This credit shall be in the aggregate amount of \$150,000, shall be prorated equally between the permitholders, and shall be utilized by the permitholders solely to supplement awards for the performance conducted during the Jai Alai Tournament of Champions Meet. All awards shall be paid to the tournament's participating players no later than 30 days following the conclusion of said Jai Alai Tournament of Champions Meet.

(5) In addition to the credit authorized in subsection (4), the Jai Alai Tournament of Champions Meet permitholders shall receive a credit against the taxes, otherwise due and payable under s. 550.0951 or s. 550.09511, generated during said permitholders' current regular meet, in an amount not to exceed the aggregate amount of \$150,000, which shall be prorated equally between the permitholders, and shall be utilized by the permitholders for such capital improvements and extraordinary expenses, including marketing expenses, as may be necessary for the operation of the meet. The determination of the amount to be credited shall be made by the division upon application of said permitholders.

(6) The permitholder shall be entitled to said permitholder's pro rata share of the \$150,000 tax credit provided in subsection (5) without having to make application, so long as appropriate documentation to substantiate said expenditures thereunder is provided to the division within 30 days following said Jai Alai Tournament of Champions Meet.

(7) No Jai Alai Tournament of Champions Meet shall exceed 4 days in any state fiscal year, and no more than one performance shall be conducted on any one day of the meet. There shall be only one Jai Alai Tournament of Champions Meet in any state fiscal year.

(8) The division is authorized to adopt such rules as are necessary to facilitate the conduct of the Jai Alai Tournament of Champions Meet as authorized in this section. Included within this grant of authority shall be the

adoption of rules regarding the overall conduct of the tournament so as to ensure the integrity of the event, licensing for participants, commingling of pari-mutuel pools, and audit requirements for tax credits and exemptions.

(9) The provisions of this section shall prevail over any conflicting provisions of this chapter.

History.--s. 4, ch. 94-328.

550.285 Obtaining feed or other supplies for racehorses or greyhound racing dogs with intent to defraud.--

(1) Any owner, trainer, or custodian of any horse or dog that is being used, or is being bred, raised, or trained to be used in racing at a pari-mutuel facility who obtains food, drugs, transportation, veterinary services, or supplies for the use or benefit of the horse or dog, with intent to defraud the person from whom the food, drugs, transportation, veterinary services, or supplies are obtained, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) In prosecutions under this section, proof that the food, drugs, transportation, veterinary services, or supplies had been furnished and not paid for, and that the owner, trainer, or custodian of the horse or dog was removing or attempting to remove any horse or dog out of the state and beyond the jurisdiction of the courts of this state, is prima facie evidence of intent to defraud under this section.

History.--s. 36, ch. 92-348.

550.334 Quarter horse racing; substitutions.--

(1) Subject to all the applicable provisions of this chapter, any person who possesses the qualifications prescribed in this chapter may apply to the division for a permit to conduct quarter horse race meetings and racing under this chapter. The applicant must demonstrate that the location or locations where the permit will be used are available for such use and that she or he has the financial ability to satisfy the reasonably anticipated operational expenses of the first racing year following final issuance of the permit. If the racing facility is already built, the application must contain a statement, with reasonable supporting evidence, that the permit will be used for quarter horse racing within 1 year after the date on which it is granted; if the facility is not already built, the application must contain a statement, with reasonable supporting evidence, that substantial construction will be started within 1 year after the issuance of the permit. After receipt of an application, the division shall convene to consider and act upon permits applied for. The division shall disapprove an application if it fails to meet the requirements of this chapter. Upon each application filed

and approved, a permit shall be issued setting forth the name of the applicant and a statement showing qualifications of the applicant to conduct racing under this chapter. If a favorable referendum on a pari-mutuel facility has not been held previously within the county, then, before a quarter horse permit may be issued by the division, a referendum ratified by a majority of the electors in the county is required on the question of allowing quarter horse races within that county; but if there is an extraordinary vote of the board of county commissioners of that county to allow quarter horse racing, the requirement for a referendum does not apply.

(2) After a quarter horse racing permit has been granted by the division, the department shall grant to the lawful holder of such permit, subject to the conditions of this section, a license to conduct quarter horse racing under this chapter; and the division shall fix annually the time when, place where, and number of days upon which racing may be conducted by such quarter horse racing permitholder. After the first license has been issued to the holder of a permit for quarter horse racing, all subsequent annual applications for a license by a permitholder must be accompanied by proof, in such form as the division requires, that the permitholder still possesses all the qualifications prescribed by this chapter. The division may revoke any permit or license issued under this section upon the willful violation by the licensee of any provision of this chapter or any rule adopted by the division under this chapter. The division shall revoke any quarter horse permit under which no live racing has ever been conducted before July 7, 1990, for failure to conduct a horse meet pursuant to the license issued where a full schedule of horseracing has not been conducted for a period of 18 months commencing on October 1, 1990, unless the permitholder has commenced construction on a facility at which a full schedule of live racing could be conducted as approved by the division. "Commenced construction" means initiation of and continuous activities beyond site preparation associated with erecting or modifying a horseracing facility, including procurement of a building permit applying the use of approved construction documents, proof of an executed owner/contractor agreement or an irrevocable or binding forced account, and actual undertaking of foundation forming with steel installation and concrete placing. The 18-month period shall be extended by the division, to the extent that the applicant demonstrates to the satisfaction of the division that good faith commencement of the construction of the facility is being delayed by litigation or by governmental action or inaction with respect to regulations or permitting precluding commencement of the construction of the facility.

(3) The operator of any licensed racetrack is authorized to lease such track to any quarter horse racing permitholder for the conduct of quarter horse racing under this chapter.

(4) Sections 550.054, 550.0651, and 550.175 are inapplicable to quarter horse racing as permitted under this

section. All other provisions of this chapter apply to, govern, and control such racing, and the same must be conducted in compliance therewith.

(5) Quarter horses participating in such races must be duly registered by the American Quarter Horse Association, and before each race such horses must be examined and declared in fit condition by a qualified person designated by the division.

(6) Any quarter horse racing days permitted under this chapter are in addition to any other racing permitted under the license issued the track where such quarter horse racing is conducted.

(7)(a) Any quarter horse racing permitholder operating under a valid permit issued by the division is authorized to substitute other races of other breeds of horses which are, respectively, registered with the American Paint Horse Association, Appaloosa Horse Club, Arabian Horse Registry of America, Jockey Club, Palomino Horse Breeders of America, or United States Trotting Association, for no more than 50 percent of the quarter horse races daily.

(b) Any permittee operating within an area of 50 air miles of a licensed thoroughbred track may not substitute thoroughbred races under this section while a thoroughbred horse race meet is in progress within that 50 miles. Any permittee operating within an area of 125 air miles of a licensed thoroughbred track may not substitute live thoroughbred races under this section while a thoroughbred permittee who pays taxes under s. 550.09515(2)(a) is conducting a thoroughbred meet within that 125 miles. These mileage restrictions do not apply to any permittee that holds a nonwagering permit issued pursuant to s. 550.505. Races comprised of thoroughbred horses under this section registered with the Jockey Club may not be permitted during the period beginning September 1 and ending January 5 of each year in any county where there are one or more licensed dog tracks conducting race meets. This section does not affect the competitive award of matinee performances to jai alai frontons or dog tracks in opposition to races comprised of thoroughbred horses registered with the Jockey Club under this section.

(8) A quarter horse permit issued pursuant to this section is not eligible for transfer or conversion to another type of pari-mutuel operation.

(9) Any nonprofit corporation, including, but not limited to, an agricultural cooperative marketing association, organized and incorporated under the laws of this state may apply for a quarter horse racing permit and operate racing meets under such permit, provided all pari-mutuel taxes and fees applicable to such racing are paid by the corporation. However, insofar as its pari-mutuel operations are concerned, the corporation shall be considered to be a corporation for profit and is subject to taxation on all property used and profits earned in connection with its

pari-mutuel operations.

(10) Intertrack wagering shall not be authorized for any quarter horse permitholder located within 50 miles of an existing greyhound track unless such quarter horse permitholder has incurred a minimum capital expenditure of at least \$7.5 million. "Capital expenditure" means an expenditure, including an expenditure for a construction project undertaken by a quarter horse permitholder as its own contractor, which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; and includes the cost, in current value, of the studies, surveys, designs, plans, working drawings, specifications, refinancing costs, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment.

History.--s. 37, ch. 92-348; s. 11, ch. 95-390; s. 789, ch. 97-103.

550.3355 Harness track licenses for summer quarter horse racing.--

Any harness track licensed to operate under the provisions of s. 550.375 may make application for, and shall be issued by the division, a license to operate not more than 50 quarter horse racing days during the summer season, which shall extend from June 1 until September 1 of each year. However, this license to operate quarter horse racing for 50 days is in addition to the racing days and dates provided in s. 550.375 for harness racing during the winter seasons; and, it does not affect the right of such licensee to operate harness racing at the track as provided in s. 550.375 during the winter season. All provisions of this chapter governing quarter horse racing not in conflict herewith apply to the operation of quarter horse meetings authorized hereunder, except that all quarter horse racing permitted hereunder shall be conducted at night.

History.--s. 38, ch. 92-348.

550.3551 Transmission of racing and jai alai information; commingling of pari-mutuel pools.--

(1)(a) It is unlawful for any person to transmit, by any means, racing information to any person or to relay the same to any person by word of mouth, by signal, or by use of telephone, telegraph, radio, or any other means when the information is knowingly used or intended to be used for illegal gambling purposes or in furtherance of illegal gambling.

(b) Paragraph (a) shall be deemed an exercise of the police power of the state for the protection of the public welfare, health, peace, safety, and morals of the people of the state, and this section shall be liberally construed for the accomplishment of this purpose.

(c) A person who violates paragraph (a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any horse track, dog track, or fronton licensed under this chapter may transmit broadcasts of races or games conducted at the enclosure of the licensee to locations outside this state.

(a) All broadcasts of horseraces transmitted to locations outside this state must comply with the provisions of the Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss. 3001 et seq.

(b) Wagers accepted by any out-of-state pari-mutuel permitholder or licensed betting system on a race broadcasted under this subsection may be, but are not required to be, included in the pari-mutuel pools of the horse track in this state that broadcasts the race upon which wagers are accepted. The handle, as referred to in s. 550.0951(3), does not include any wagers accepted by an out-of-state pari-mutuel permitholder or licensed betting system, irrespective of whether such wagers are included in the pari-mutuel pools of the Florida permitholder as authorized by this subsection.

(3) Any horse track licensed under this chapter may receive broadcasts of horseraces conducted at other horse racetracks located outside this state at the racetrack enclosure of the licensee during its racing meet.

(a) All broadcasts of horseraces received from locations outside this state must comply with the provisions of the Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss. 3001 et seq.

(b) Wagers accepted at the horse track in this state may be, but are not required to be, included in the pari-mutuel pools of the out-of-state horse track that broadcasts the race. Notwithstanding any contrary provisions of this chapter, if the horse track in this state elects to include wagers accepted on such races in the pari-mutuel pools of the out-of-state horse track that broadcasts the race, from the amount wagered by patrons at the horse track in this state and included in the pari-mutuel pools of the out-of-state horse track, the horse track in this state shall deduct as the takeout from the amount wagered by patrons at the horse track in this state and included in the pari-mutuel pools of the out-of-state horse track a percentage equal to the percentage deducted from the amount wagered at the out-of-state racetrack as is authorized by the laws of the jurisdiction exercising regulatory authority over the out-of-state horse track.

(c) All forms of pari-mutuel wagering are allowed on races broadcast under this section, and all money wagered by patrons on such races shall be computed as part of the total amount of money wagered at each racing performance for purposes of taxation under ss. 550.0951, 550.09512, and 550.09515. Section 550.2625(2)(a),

(b), and (c) does not apply to any money wagered on races broadcast under this section. Similarly, the takeout shall

be increased by breaks and uncashed tickets for wagers on races broadcast under this section, notwithstanding any contrary provision of this chapter.

(4) Any dog track or fronton licensed under this chapter may receive broadcasts of dograces or jai alai games conducted at other tracks or frontons located outside the state at the track enclosure of the licensee during its operational meeting. All forms of pari-mutuel wagering are allowed on dograces or jai alai games broadcast under this subsection. All money wagered by patrons on dograces broadcast under this subsection shall be computed in the amount of money wagered each performance for purposes of taxation under ss. 550.0951 and 550.09511.

(5) A pari-mutuel permitholder licensed under this chapter may not receive broadcasts of races or games from outside this state except from an out-of-state pari-mutuel permitholder who holds the same type or class of pari-mutuel permit as the pari-mutuel permitholder licensed under this chapter who intends to receive the broadcast.

(6)(a) A maximum of 20 percent of the total number of races on which wagers are accepted by a greyhound permitholder not located as specified in s. 550.615(6) may be received from locations outside this state. A permitholder may not conduct fewer than eight live races or games on any authorized race day except as provided in this subsection. A thoroughbred permitholder may not conduct fewer than eight live races on any race day without the written approval of the Florida Thoroughbred Breeders' Association and the horsemen's group representing the majority of thoroughbred racehorse owners and trainers in this state. A harness permitholder may conduct fewer than eight live races on any authorized race day, except that such permitholder must conduct a full schedule of live racing during its race meet consisting of at least eight live races per authorized race day for at least 100 days. Any harness horse permitholder that during the preceding racing season conducted a full schedule of live racing may, at any time during its current race meet, receive full-card broadcasts of harness horse races conducted at harness racetracks outside this state at the harness track of the permitholder and accept wagers on such harness races. With specific authorization from the division for special racing events, a permitholder may conduct fewer than eight live races or games when the permitholder also broadcasts out-of-state races or games. The division may not grant more than two such exceptions a year for a permitholder in any 12-month period, and those two exceptions may not be consecutive.

(b) Notwithstanding any other provision of this chapter, any harness horse permitholder accepting broadcasts of out-of-state harness horse races when such permitholder is not conducting live races must make the out-of-state signal available to all permitholders eligible to conduct intertrack wagering and shall pay to guest tracks located as

specified in ss. 550.615(6) and 550.6305(9)(d) 50 percent of the net proceeds after taxes and fees to the out-of-state host track on harness race wagers which they accept. A harness horse permitholder shall be required to

pay into its purse account 50 percent of the net income retained by the permitholder on account of wagering on the out-of-state broadcasts received pursuant to this subsection. Nine-tenths of a percent of all harness wagering proceeds on the broadcasts received pursuant to this subsection shall be paid to the Florida Standardbred Breeders and Owners Association under the provisions of s. 550.2625(4) for the purposes provided therein.

(7) A racetrack or fronton may not pay any patron for any pari-mutuel ticket purchased on any race or game transmitted pursuant to this section until the stewards, judges, or panel of judges or other similarly constituted body at the racetrack or fronton where the race or game originates has confirmed the race or game as official.

(8) The entry and participation for a purse or any other prize of any racing animal by the owner of the animal and the jockey or driver is tantamount to acceptance of such purse or prize as full and complete remuneration and payment for such entry and participation, including the broadcast of such event, except as otherwise provided in this section.

(9) To the extent that any rights, privileges, or immunities granted to pari-mutuel permitholders under this section conflict with any other law or affect any order or rule of the Florida Public Service Commission relating to the regulation of public utilities and the furnishing to others of any communication, wire service, or other similar service or equipment, the rights, privileges, or immunities granted under this section prevail over such conflicting provisions.

(10) The division may adopt rules necessary to facilitate commingling of pari-mutuel pools, to ensure the proper calculation of payoffs in circumstances in which different commission percentages are applicable and to regulate the distribution of net proceeds between the horse track and, in this state, the horsemen's associations.

(11) Greyhound tracks and jai alai frontons have the same privileges as provided in this section to horse tracks, as applicable, subject to rules adopted under subsection (10).

(12) All permitholders licensed under this chapter have standing to enforce the provisions of subsections (2) and (3) in the courts of this state.

(13) This section does not prohibit the commingling of national pari-mutuel pools by a totalisator company that is licensed under this chapter. Such commingling of national pools is subject to division review and approval and must be performed in accordance with rules adopted by the division to ensure accurate calculation and distribution of the pools.

(14) Notwithstanding the provisions of paragraph (3)(b) pertaining to takeout, takeouts different from those of the host track may be used when the totalisator is programmed for net pool pricing and the host track elects to use net pool pricing in the calculation of its pools. This provision shall also apply to greyhound intertrack and simulcast wagers.

History.--s. 39, ch. 92-348; s. 12, ch. 95-390; s. 12, ch. 96-364.

550.3605 Use of electronic transmitting equipment; permit by division required.--

Any person who has in her or his possession or control on the premises of any licensed horse or dog racetrack or jai alai fronton any electronic transmitting equipment or device that is capable of transmitting or communicating any information whatsoever to another person, without the written permission of the division, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. This section does not apply to the possession or control of any telephone, telegraph, radio, or television facilities installed by any such licensee with the approval of the division.

History.--s. 40, ch. 92-348; s. 790, ch. 97-103.

550.3615 Bookmaking on the grounds of a permitholder; penalties; reinstatement; duties of track employees; penalty; exceptions.--

(1) Any person who engages in bookmaking, as defined in s. 849.25, on the grounds or property of a permitholder of a horse or dog track or jai alai fronton is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.

(2) Any person who, having been convicted of violating subsection (1), thereafter commits the same crime is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.

(3) Any person who has been convicted of bookmaking in this state or any other state of the United States or any foreign country shall be denied admittance to and shall not attend any racetrack or fronton in this state during its racing seasons or operating dates, including any practice or preparational days, for a period of 2 years after the date of conviction or the date of final appeal. Following the conclusion of the period of ineligibility, the director of the

division may authorize the reinstatement of an individual following a hearing on readmittance. Any such person who knowingly violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) If the activities of a person show that this law is being violated, and such activities are either witnessed or are common knowledge by any track or fronton employee, it is the duty of that employee to bring the matter to the immediate attention of the permit holder, manager, or her or his designee, who shall notify a law enforcement agency having jurisdiction. Willful failure on the part of any track or fronton employee to comply with the provisions of this subsection is a ground for the division to suspend or revoke that employee's license for track or fronton employment.

(5) Each permittee shall display, in conspicuous places at a track or fronton and in all race and jai alai daily programs, a warning to all patrons concerning the prohibition and penalties of bookmaking contained in this section and s. 849.25. The division shall adopt rules concerning the uniform size of all warnings and the number of placements throughout a track or fronton. Failure on the part of the permittee to display such warnings may result in the imposition of a \$500 fine by the division for each offense.

(6) This section does not apply to any person attending a track or fronton or employed by a track or fronton who places a bet through the legalized pari-mutuel pool for another person, provided such service is rendered gratuitously and without fee or other reward.

(7) This section does not apply to any prosecutions filed and pending at the time of passage hereof, but all such cases shall be disposed of under existing law at the time of institution of such prosecutions.

History.--s. 41, ch. 92-348; s. 791, ch. 97-103.

550.375 Operation of certain harness tracks.--

(1) The Legislature finds that the operation of harness tracks and legalized pari-mutuel and mutuel betting at harness tracks in this state will become a substantial business compatible with the best interests of the state, and the taxes derived therefrom will constitute an important and integral part of the tax structure of the state and counties. The Legislature further finds that the operation of harness tracks within the state will establish and encourage the acquisition and maintenance of breeding farms for the breeding of standardbred horses used in harness races, and that this exhibition sport will attract a large tourist business to the state.

(2) Any permittee or licensee authorized under this section to transfer the location of its permit may conduct

harness racing only between the hours of 7 p.m. and 2 a.m. A permit so transferred applies only to the locations provided in this section. The provisions of this chapter which prohibit the location and operation of a licensed harness track permittee and licensee within 100 air miles of the location of a racetrack authorized to conduct racing under this chapter and which prohibit the division from granting any permit to a harness track at a location in the area in which there are three horse tracks located within 100 air miles thereof do not apply to a licensed harness track that is required by the terms of this section to race between the hours of 7 p.m. and 2 a.m.

(3) A permit may not be issued by the division for the operation of a harness track within 75 air miles of a location of a harness track licensed and operating under this chapter.

(4) The permitholder conducting a harness horse race meet must pay the daily license fee, the admission tax, the tax on breaks, and the tax on pari-mutuel handle provided in s. 550.0951 and is subject to all penalties and sanctions provided in 1s. 550.0951(6).

(5) Each licensed harness track in the state must schedule an average of one race per racing day in which horses bred in this state and duly registered as standardbred harness horses have preference as entries over non-Florida-bred horses. All licensed harness tracks must write the conditions for such races in which Florida-bred horses are preferred so as to assure that all Florida-bred horses available for racing at such tracks are given full opportunity to perform in the class races for which they are qualified, and the opportunity of performing must be afforded to each class of horses in the proportion that the number of horses in this class bears to the total number of Florida-bred horses available. However, a track is not required to write conditions for a race to accommodate a class of horses for which a race would otherwise not be scheduled at such track during its meeting.

(6) If a permit has been transferred from a county under this section, no other transfer is permitted from such county.

History.--s. 42, ch. 92-348.

1Note.--Substituted by the editors for a reference to s. 550.0951(7), which does not exist; s. 550.0951(6) relates to penalties.

550.475 Lease of pari-mutuel facilities by pari-mutuel permitholders.--

Holders of valid pari-mutuel permits for the conduct of any dogracing or thoroughbred and standardbred horse racing in this state shall be entitled to lease any and all of their facilities to any other holder of a same class valid pari-mutuel permit for dogracing or thoroughbred or standardbred horse racing, when located within a 35-mile radius of each other; and such lessee shall be entitled to a permit and license to operate its race meet at the leased premises.

History.--s. 43, ch. 92-348; s. 13, ch. 96-364.

550.495 Totalisator licensing.--

(1) A totalisator may not be operated at a pari-mutuel facility in this state, or at a facility located in or out of this state which is used as the primary totalisator for a race or game conducted in this state, unless the totalisator company possesses a business license issued by the division.

(2)(a) Each totalisator company must apply to the division for an annual business license. The application must include such information as the division by rule requires.

(b) As a part of its license application, each totalisator company must agree in writing to pay to the division an amount equal to the loss of any state revenues from missed or canceled races, games, or performances due to acts of the totalisator company or its agents or employees or failures of the totalisator system, except for circumstances beyond the control of the totalisator company or agent or employee, as determined by the division.

(c) Each totalisator company must file with the division a performance bond, acceptable to the division, in the sum of \$250,000 issued by a surety approved by the division or must file proof of insurance, acceptable to the division, against financial loss in the amount of \$250,000, insuring the state against such a revenue loss.

(d) In the event of a loss of state tax revenues, the division shall determine:

1. The estimated revenue lost as a result of missed or canceled races, games, or performances;
2. The number of races, games, or performances which is practicable for the permitholder to conduct in an attempt to mitigate the revenue loss; and
3. The amount of the revenue loss which the makeup races, games, or performances will not recover and for which the totalisator company is liable.

(e) Upon the making of such determinations, the division shall issue to the totalisator company and to the affected permitholder an order setting forth the determinations of the division.

(f) If the order is contested by either the totalisator company or any affected permitholder, the provisions of chapter 120 apply. If the totalisator company contests the order on the grounds that the revenue loss was due to circumstances beyond its control, the totalisator company has the burden of proving that circumstances vary in fact beyond its control. For purposes of this paragraph, strikes and acts of God are beyond the control of the totalisator company.

(g) Upon the failure of the totalisator company to make the payment found to be due the state, the division may cause the forfeiture of the bond or may proceed against the insurance contract, and the proceeds of the bond or contract shall be deposited into the Pari-mutuel Wagering Trust Fund. If that bond was not posted or insurance obtained, the division may proceed against any assets of the totalisator company to collect the amounts due under this subsection.

(3) If the applicant meets the requirements of this section and division rules and pays the license fee, the division shall issue the license.

(4) Each totalisator company shall conduct operations in accordance with rules adopted by the division, in such form, content, and frequency as the division by rule determines.

(5) The division and its representatives may enter and inspect any area of the premises of a licensed totalisator company, and may examine totalisator records, during the licensee's regular business or operating hours.

History.--s. 44, ch. 92-348; s. 13, ch. 95-390.

550.505 Nonwagering permits.--

(1)(a) Except as provided in this section, permits and licenses issued by the division are intended to be used for pari-mutuel wagering operations in conjunction with horseraces, dograces, or jai alai performances.

(b) Subject to the requirements of this section, the division is authorized to issue permits for the conduct of horseracing meets without pari-mutuel wagering or any other form of wagering being conducted in conjunction therewith. Such permits shall be known as nonwagering permits and may be issued only for horseracing meets. A horseracing permitholder need not obtain an additional permit from the division for conducting nonwagering racing under this section, but must apply to the division for the issuance of a license under this section. The holder of a nonwagering permit is prohibited from conducting pari-mutuel wagering or any other form of wagering in conjunction with racing conducted under the permit. Nothing in this subsection prohibits horseracing for any stake, purse, prize, or premium.

(c) The holder of a nonwagering permit is exempt from the provisions of s. 550.105 and is exempt from the imposition of daily license fees and admission tax.

(2)(a) Any person not prohibited from holding any type of pari-mutuel permit under s. 550.1815 shall be allowed to apply to the division for a nonwagering permit. The applicant must demonstrate that the location or locations where

the nonwagering permit will be used are available for such use and that the applicant has the financial ability to satisfy

the reasonably anticipated operational expenses of the first racing year following final issuance of the nonwagering

permit. If the racing facility is already built, the application must contain a statement, with reasonable supporting

evidence, that the nonwagering permit will be used for horseracing within 1 year after the date on which it is granted.

If the facility is not already built, the application must contain a statement, with reasonable supporting evidence, that

substantial construction will be started within 1 year after the issuance of the nonwagering permit.

(b) The division may conduct an eligibility investigation to determine if the applicant meets the requirements of paragraph (a).

(3)(a) Upon receipt of a nonwagering permit, the permitholder must apply to the division before June 1 of each

year for an annual nonwagering license for the next succeeding calendar year. Such application must set forth the days

and locations at which the permitholder will conduct nonwagering horseracing and must indicate any changes in

ownership or management of the permitholder occurring since the date of application for the prior license.

(b) On or before August 1 of each year, the division shall issue a license authorizing the nonwagering permitholder

to conduct nonwagering horseracing during the succeeding calendar year during the period and for the number of

days set forth in the application, subject to all other provisions of this section.

(c) The division may conduct an eligibility investigation to determine the qualifications of any new ownership or

management interest in the permit.

(4) Upon the approval of racing dates by the division, the division shall issue an annual nonwagering license to the

nonwagering permitholder.

(5) Only horses registered with an established breed registration organization, which organization shall be

approved by the division, shall be raced at any race meeting authorized by this section.

(6) The division may order any person participating in a nonwagering meet to cease and desist from participating

in such meet if the division determines the person to be not of good moral character in accordance with s. 550.1815.

The division may order the operators of a nonwagering meet to cease and desist from operating the meet if the

division determines the meet is being operated for any illegal purpose.

History.--s. 45, ch. 92-348; s. 14, ch. 95-390.

550.5251 Florida thoroughbred racing; certain permits; operating days.--

(1) Each thoroughbred permit holder under whose permit thoroughbred racing was conducted in this state at any time between January 1, 1987, and January 1, 1988, shall annually be entitled to apply for and annually receive thoroughbred racing days and dates as set forth in this section. As regards such permit holders, the annual thoroughbred racing season shall be from June 1 of any year through May 31 of the following year and shall be known as the "Florida Thoroughbred Racing Season."

(2) Each permit holder referred to in subsection (1) shall annually, during the period commencing December 15 of each year and ending January 4 of the following year, file in writing with the division its application to conduct one or more thoroughbred racing meetings during the thoroughbred racing season commencing on the following June 1. Each application shall specify the number and dates of all performances that the permit holder intends to conduct during that thoroughbred racing season. On or before February 15 of each year, the division shall issue a license authorizing each permit holder to conduct performances on the dates specified in its application. Up to March 31 of each year, each permit holder may request and shall be granted changes in its authorized performances; but thereafter, as a condition precedent to the validity of its license and its right to retain its permit, each permit holder must operate the full number of days authorized on each of the dates set forth in its license.

(3) Each thoroughbred permit referred to in subsection (1), including, but not limited to, any permit originally issued as a summer thoroughbred horse racing permit, is hereby validated and shall continue in full force and effect.

(4) A thoroughbred racing permit holder may not begin any race later than 7 p.m. However, any thoroughbred permit holder in a county in which the authority for cardrooms has been approved by the board of county commissioners may elect not to operate a cardroom when conducting live races during its current race meet and instead to receive and rebroadcast out-of-state races after the hour of 7 p.m. on any day during which the permit holder conducts live races. However, such permit holder may not engage in both operating a cardroom and receiving or rebroadcasting out-of-state races after 7 p.m. Permit holders shall be required to elect between either operating a cardroom or engaging in simulcasting after 7 p.m. at the time of submitting its application for its annual license pursuant to this section.

(5)(a) Each licensed thoroughbred permit holder in this state must run an average of one race per racing day in which horses bred in this state and duly registered with the Florida Thoroughbred Breeders' Association have preference as entries over non-Florida-bred horses. All licensed thoroughbred racetracks shall write the conditions for such races in which Florida-bred horses are preferred so as to assure that all Florida-bred horses available for racing at such tracks are given full opportunity to run in the class of races for which they are qualified. The

opportunity of running must be afforded to each class of horses in the proportion that the number of horses in this class bears to the total number of Florida-bred horses available. A track is not required to write conditions for a race to accommodate a class of horses for which a race would otherwise not be run at the track during its meeting.

(b) Each licensed thoroughbred permitholder in this state may run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America. Any licensed thoroughbred permitholder that elects to run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America is not required to provide stables for the Arabian horses racing under this paragraph.

(c) Each licensed thoroughbred permitholder in this state may run up to three additional races per racing day composed exclusively of quarter horses registered with the American Quarter Horse Association.

History.--s. 46, ch. 92-348; s. 6, ch. 93-123; s. 14, ch. 96-364; s. 7, ch. 98-190.

550.615 Intertrack wagering.--

(1) Any horserace permitholder licensed under this chapter which has conducted a full schedule of live racing may, at any time, receive broadcasts of horseraces and accept wagers on horseraces conducted by horserace permitholders licensed under this chapter at its facility.

(2) Any track or fronton licensed under this chapter which in the preceding year conducted a full schedule of live racing is qualified to, at any time, receive broadcasts of any class of pari-mutuel race or game and accept wagers on such races or games conducted by any class of permitholders licensed under this chapter.

(3) If a permitholder elects to broadcast its signal to any permitholder in this state, any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345 is entitled to receive the broadcast and conduct intertrack wagering under this section; provided, however, that the host track may require a guest track within 25 miles of another permitholder to receive in any week at least 60 percent of the live races that the host track is making available on the days that the guest track is otherwise operating live races or games. A host track may require a guest track not operating live races or games and within 25 miles of another permitholder to accept within any week at least 60 percent of the live races that the host track is making available. A person may not restrain or attempt to restrain any permitholder that is otherwise authorized to conduct intertrack wagering from receiving the signal of any other permitholder or sending its signal to any permitholder.

(4) In no event shall any intertrack wager be accepted on the same class of live races or games of any

permitholder without the written consent of such operating permitholders conducting the same class of live races or games if the guest track is within the market area of such operating permitholder.

(5) No permitholder within the market area of the host track shall take an intertrack wager on the host track without the consent of the host track.

(6) Notwithstanding the provisions of subsection (3), in any area of the state where there are three or more horserace permitholders within 25 miles of each other, intertrack wagering between permitholders in said area of the state shall only be authorized under the following conditions: Any permitholder, other than a thoroughbred permitholder, may accept intertrack wagers on races or games conducted live by a permitholder of the same class or any harness permitholder located within such area and any harness permitholder may accept wagers on games conducted live by any jai alai permitholder located within its market area and from a jai alai permitholder located within the area specified in this subsection when no jai alai permitholder located within its market area is conducting live jai alai performances; any greyhound or jai alai permitholder may receive broadcasts of and accept wagers on any permitholder of the other class provided that a permitholder, other than the host track, of such other class is not operating a contemporaneous live performance within the market area.

(7) In any county of the state where there are only two permits, one for dogracing and one for jai alai, no intertrack wager may be taken during the period of time when a permitholder is not licensed to conduct live races or games without the written consent of the other permitholder that is conducting live races or games. However, if neither permitholder is conducting live races or games, either permitholder may accept intertrack wagers on horseraces or on the same class of races or games, or on both horseraces and the same class of races or games as is authorized by its permit.

(8) In any two contiguous counties of the state in which there are located only four active permits, one for thoroughbred horse racing, two for greyhound dogracing, and one for jai alai games, no intertrack wager may be accepted on the same class of live races or games of any permitholder without the written consent of such operating permitholders conducting the same class of live races or games if the guest track is within the market area of such operating permitholder.

(9)(a) Upon application to the division on or before January 31 of each year, any quarter horse permitholder that has conducted at least 15 days of thoroughbred horse sales at a permanent sales facility for at least 3 consecutive years, and conducted at least one day of nonwagering thoroughbred racing, with a purse structure of at least

\$250,000 per year for 2 consecutive years prior to such application, shall be issued a license to conduct intertrack wagering for thoroughbred racing for up to 21 days in connection with thoroughbred sales, to conduct intertrack wagering at such permanent sales facility between November 1 and May 8 of the following year, to conduct intertrack wagering at such permanent sales facility between May 9 and October 31 at such times and on such days as any jai alai permitholder in the same county is not conducting live performances, and to conduct intertrack wagering under the provisions of this subsection during the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet that is conducted before November 1 and after May 8, subject to conditions set forth in this subsection, provided that no more than one such license may be issued.

(b) If more than one permitholder applies, the division shall determine which permitholder shall be granted the license. In making its determination, the division shall consider the length of time the permitholder has been conducting thoroughbred horse sales in this state, the length of time the applicant has had a permanent location in this state, and the volume of sales of thoroughbred horses in this state, giving the greater weight to the applicant that meets these criteria.

(c) The applicant must comply with the provisions of ss. 550.125 and 550.1815.

(d) Intertrack wagering under this subsection may not be conducted within 50 miles of any greyhound racetrack that conducted a full schedule of live racing prior to June 1, 1990.

(e) For each year such quarter horse permitholder must obtain the license set forth in paragraph (a), any provisions relating to suspension or revocation of a quarter horse permit for failure to conduct live quarter horse racing do not apply.

(f) Intertrack wagering under this subsection may only be conducted on thoroughbred horse racing, and intertrack wagering under this subsection may not be conducted on evening performances.

(10) All costs of receiving the transmission of the broadcasts shall be borne by the guest track; and all costs of sending the broadcasts shall be borne by the host track.

1(11) Notwithstanding any other provision of this section, any thoroughbred permitholder that conducts performances during the period beginning May 23 and ending January 2 must make available any live pari-mutuel event conducted and any simulcast pari-mutuel event received by such permitholder to any thoroughbred permitholder that conducts performances during the period beginning March 17 and ending May 22, and such guest permitholder is authorized to accept wagers on such signals. Notwithstanding s. 550.0951(3)(c), the tax on wagers accepted by the guest permitholder on such events shall be 2 percent, but such amount shall be retained by the host

track as compensation for lost revenues and purses. At least 50 percent of the amount retained shall be paid as purses at the host track. This subsection applies only to thoroughbred permitholders located in any area of the state where there are three or more thoroughbred permitholders within 25 miles of each other.

History.--s. 47, ch. 92-348; s. 2, ch. 93-123; s. 17, ch. 95-390; s. 15, ch. 96-364; ss. 8, 9, ch. 98-190.

1Note.--Repealed effective July 1, 2001, by s. 9, ch. 98-190.

550.625 Intertrack wagering; purses; breeders' awards.--

If a host track is a horse track:

(1) A host track racing under either a thoroughbred or quarter horse permit shall pay an amount equal to 6.125 percent of all wagers placed pursuant to the provisions of s. 550.615, as purses during its current race meet.

However, up to 0.50 percent of all wagers placed pursuant to s. 550.615 may, at the option of the host track, be

deducted from the amount retained by the host track for purses to supplement the awards program for owners of

Florida-bred horses as set forth in s. 550.2625(6). A host track racing under a harness permit shall pay an amount

equal to 7 percent of all wagers placed pursuant to the provisions of s. 550.615, as purses during its current race

meet. If a host track underpays or overpays purses required by this section and s. 550.2625, the provisions of s.

550.2625 apply to the overpayment or underpayment.

(2) Of all wagers placed pursuant to the provisions of s. 550.615:

(a) If the host track is a thoroughbred track, an amount equal to 0.75 percent shall be paid to the Florida Thoroughbred Breeders' Association, Inc., for the payment of breeders' awards;

(b) If the host track is a harness track, an amount equal to 1 percent shall be paid to the Florida Standardbred Breeders and Owners Association, Inc., for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and the general promotion of owning and breeding, Florida-bred standardbred horses; or

(c) If the host track is a quarter horse track, an amount equal to 1 percent shall be paid to the Florida Quarter Horse Breeders and Owners Association, Inc., for the payment of breeders' awards and general promotion.

(3) The payment to a breeders' organization shall be combined with any other amounts received by the respective breeders' and owners' associations as so designated. Each breeders' and owners' association receiving these funds

shall be allowed to withhold the same percentage as set forth in s. 550.2625 to be used for administering the payment

of awards and for the general promotion of their respective industries. If the total combined amount received for

thoroughbred breeders' awards exceeds 15 percent of the purse required to be paid under subsection (1), the breeders' and owners' association, as so designated, notwithstanding any other provision of law, shall submit a plan to the division for approval which would use the excess funds in promoting the breeding industry by increasing the purse structure for Florida-breds. Preference shall be given to the track generating such excess.

History.--s. 48, ch. 92-348.

550.6305 Intertrack wagering; guest track payments; accounting rules.--

(1) All guest tracks which are eligible to receive broadcasts and accept wagers on horseraces from a host track racing under either a thoroughbred or quarter horse permit shall be entitled to payment of 7 percent of the total contributions to the pari-mutuel pool on wagers accepted at the guest track. All guest tracks that are eligible to receive broadcasts and accept wagers on greyhound races or jai alai games from a host track other than a thoroughbred or harness permitholder shall be entitled to payments of not less than 5 percent of the total contributions to the daily pari-mutuel pool on wagers accepted at the guest track. All guest tracks that are eligible to receive broadcasts and accept wagers on horseraces from a host track racing under a harness horse permit shall be entitled to a payment of 5 percent of the total contributions to the daily pari-mutuel pool on wagers accepted at the guest track. However, if a guest track is a horserace permitholder that accepts intertrack wagers during its current race meet, one-half of the payment provided in this subsection and s. 550.6345 shall be paid as purses during its current race meet.

(a) However, if the host track is a thoroughbred permitholder, and the guest track is also a thoroughbred permitholder and accepts intertrack wagers on thoroughbred races during its current race meet, one-third of the payment provided in this subsection shall be paid as purses during its current race meet. In addition, an amount equal to 2 percent of the intertrack handle at the thoroughbred guest track shall be remitted by the host track to the guest thoroughbred track, which amount shall be deducted from the purses required to be paid by the host track. Such amount shall be paid by the guest thoroughbred track as purses during its current race meet.

(b) If thoroughbred intertrack wagering is taken at any guest track, including a thoroughbred guest track, which is located within 25 miles of any thoroughbred permitholder that is not conducting live racing, the host track shall pay to such thoroughbred permitholder an amount equal to 2 percent of the intertrack handle at all such guest tracks, including the guest thoroughbred track, which amount shall be deducted from the purses otherwise required to be paid by the host track. This amount shall be used by the thoroughbred permitholder to pay purses during its next race

meet.

(2) For the purposes of calculation of odds and payoffs and distribution of the pari-mutuel pools, all intertrack wagers shall be combined with the pari-mutuel pools at the host track. Notwithstanding this subsection or subsection

(4), a greyhound pari-mutuel permitholder may conduct intertrack wagering without combining pari-mutuel pools on not more than three races in any week, not to exceed 20 races in a year. All other provisions concerning pari-mutuel takeout and payments, including state tax payments, apply as if the pool had been combined.

(3) All forms of pari-mutuel wagering shall be allowed on all wagering authorized under s. 550.615 and this section.

(4) The takeout on all intertrack wagering shall be the same as the takeout on similar pari-mutuel pools conducted at the host track.

(5) The division shall adopt rules providing an expedient accounting procedure for the transfer of the pari-mutuel pool in order to properly account for payment of state taxes, payment to the guest track, payment to the host track, payment of purses, payment to breeders' associations, payment to horsemen's associations, and payment to the public.

(6) Each host track or guest track conducting intertrack wagering shall annually file an audit identifying the intertrack wagering conducted, from wagering conducted live, which audit shall be in compliance with s. 550.125.

(7) No guest track shall make any payment to any patron on any pari-mutuel ticket purchased on any race broadcast until the stewards, judges, or panel of judges at the host track where the race or game originates has confirmed the race or game as official.

(8) The entry and participation for a purse or other prize of any racing animal by the owner of the animal and the jockey or driver is tantamount to the acceptance of such purse or prize as full and complete remuneration and payment for such entry and participation, including the broadcast of such event.

(9) A host track that has contracted with an out-of-state horse track to broadcast live races conducted at such out-of-state horse track pursuant to s. 550.3551(5) may broadcast such out-of-state races to any guest track and accept wagers thereon in the same manner as is provided in s. 550.3551.

(a) For purposes of this section, "net proceeds" means the amount of takeout remaining after the payment of state taxes, purses required pursuant to s. 550.0951(3)(c)1., the cost to the permitholder required to be paid to the

out-of-state horse track, breeders' awards paid to the Florida Thoroughbred Breeders' Association and the Florida Standardbred Breeders and Owners Association, to be used as set forth in s. 550.625(2)(a) and (b), and the deduction of any amount retained pursuant to s. 550.615(11).

(b) Notwithstanding the provisions of subsection (1) and s. 550.625(1) and (2)(a), the distribution of the net proceeds that are retained by a thoroughbred host track from the takeout on an out-of-state race rebroadcast under this subsection shall be as follows:

1. One-third of the remainder of such proceeds shall be paid to the guest track;
2. One-third of the remainder of such proceeds shall be retained by the host track; and
3. One-third of the remainder of such proceeds shall be paid by the host track as purses at the host track.

(c) All guest tracks other than thoroughbred permitholders that are eligible to receive wagers on out-of-state horseraces rebroadcast from a host track racing under a thoroughbred horse permit shall be subject to the distribution of the net proceeds as specified in paragraph (a) unless the host and guest permitholders and the recognized horseman's group agree to a different distribution of their respective portions of the proceeds by contract.

(d) Any permitholder located in any area of the state where there are only two permits, one for dogracing and one for jai alai, may accept wagers on rebroadcasts of out-of-state thoroughbred horse races from an in-state thoroughbred horse racing permitholder and shall not be subject to the provisions of paragraph (b) if such thoroughbred horse racing permitholder located within the area specified in this paragraph is both conducting live races and accepting wagers on out-of-state horseraces. In such case, the guest permitholder shall be entitled to 45 percent of the net proceeds on wagers accepted at the guest facility. The remaining proceeds shall be distributed as follows: one-half shall be retained by the host facility and one-half shall be paid by the host facility as purses at the host facility.

(e) Notwithstanding the provisions of subsection (1) and s. 550.625(1) and (2)(b), the proceeds that are retained by a harness host facility from the takeout on a race broadcast under this subsection shall be distributed as follows:

1. Of the total intertrack handle on the broadcast, 1 percent shall be deducted from the proceeds and paid to the Florida Standardbred Breeders and Owners Association, Inc., to be used as set forth in s. 550.625(2)(b);
2. One-third of the remainder of such proceeds shall be paid to the guest facility;
3. One-third of the remainder of such proceeds shall be retained by the host facility; and

4. One-third of the remainder of said proceeds shall be paid by the host facility as purses at the host facility.

(f) Any permitholder located in any area of the state where there are only two permits, one for dogracing and one for jai alai, may accept wagers on rebroadcasts of out-of-state harness horse races from an in-state harness horse racing permitholder and shall not be subject to the provisions of paragraph (b) if such harness horse racing permitholder located within the area specified in this paragraph is conducting live races. In such case, the guest permitholder shall be entitled to 45 percent of the net proceeds on wagers accepted at the guest facility. The remaining proceeds shall be distributed as follows: one-half shall be retained by the host facility and one-half shall be paid by the host facility as purses at the host facility.

(g)1. Any thoroughbred permitholder which accepts wagers on a simulcast signal must make the signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345.

2. Any thoroughbred permitholder which accepts wagers on a simulcast signal received after 6 p.m. must make such signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, including any permitholder located as specified in s. 550.615(6). Such guest permitholders are authorized to accept wagers on such simulcast signal, notwithstanding any other provision of this chapter to the contrary.

3. Any thoroughbred permitholder which accepts wagers on a simulcast signal received after 6 p.m. must make such signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, including any permitholder located as specified in s. 550.615(9). Such guest permitholders are authorized to accept wagers on such simulcast signals for a number of performances not to exceed that which constitutes a full schedule of live races for a quarter horse permitholder pursuant to s. 550.002(11), notwithstanding any other provision of this chapter to the contrary, except that the restrictions provided in s. 550.615(9)(a) apply to wagers on such simulcast signals.

No thoroughbred permitholder shall be required to continue to rebroadcast a simulcast signal to any in-state permitholder if the average per performance gross receipts returned to the host permitholder over the preceding 30-day period were less than \$100. Subject to the provisions of s. 550.615(4), as a condition of receiving rebroadcasts of thoroughbred simulcast signals under this paragraph, a guest permitholder must accept intertrack wagers on all live races conducted by all then-operating thoroughbred permitholders.

(10) All races or games conducted at a permitholder's facility, all broadcasts of such races or games, and all broadcast rights relating thereto are owned by the permitholder at whose facility such races or games are conducted and constitute the permitholder's property as defined in s. 812.012(3). Transmission, reception of a transmission, exhibition, use, or other appropriation of such races or games, broadcasts of such races or games, or broadcast rights relating thereto without the written consent of the permitholder constitutes a theft of such property under s. 812.014; and in addition to the penal sanctions contained in s. 812.014, the permitholder has the right to avail itself of the civil remedies specified in ss. 772.104, 772.11, and 812.035 in addition to any other remedies available under applicable state or federal law.

(11) To the extent that any rights, privileges, or immunities granted to pari-mutuel permitholders in this section conflict with any provision of any other law or affect any order or rule of the Florida Public Service Commission relating to the regulation of public utilities and the furnishing to others of any communication, wire service, or other similar service or equipment, the rights, privileges, and immunities granted under this section prevail over such conflicting provision.

History.--s. 49, ch. 92-348; s. 17, ch. 96-364; s. 10, ch. 98-190.

550.6308 Limited intertrack wagering license.--

In recognition of the economic importance of the thoroughbred breeding industry to this state, its positive impact on tourism, and of the importance of a permanent thoroughbred sales facility as a key focal point for the activities of the industry, a limited license to conduct intertrack wagering is established to ensure the continued viability and public interest in thoroughbred breeding in Florida.

(1) Upon application to the division on or before January 31 of each year, any person that is licensed to conduct public sales of thoroughbred horses pursuant to s. 535.01, that has conducted at least 15 days of thoroughbred horse sales at a permanent sales facility in this state for at least 3 consecutive years, and that has conducted at least 1 day of nonwagering thoroughbred racing in this state, with a purse structure of at least \$250,000 per year for 2 consecutive years before such application, shall be issued a license to conduct intertrack wagering for thoroughbred racing for up to 21 days in connection with thoroughbred sales, to conduct intertrack wagering at such permanent sales facility between November 1 and May 8, to conduct intertrack wagering at such permanent sales facility between May 9 and October 31 at such times and on such days as any thoroughbred, jai alai, or a greyhound permitholder in the same county is not conducting live performances, and to conduct intertrack wagering under the provisions of this

subsection during the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet that is conducted before November 1 and after May 8, subject to conditions set forth in this section but no more than one such license may be issued and no such license may be issued for a facility located within 50 miles of any thoroughbred permitholder's track.

(2) If more than one application is submitted for such license, the division shall determine which applicant shall be granted the license. In making its determination, the division shall grant the license to the applicant demonstrating superior capabilities, as measured by the length of time the applicant has been conducting thoroughbred sales within this state or elsewhere, the applicant's total volume of thoroughbred horse sales, within this state or elsewhere, the length of time the applicant has maintained a permanent thoroughbred sales facility in this state, and the quality of the facility.

(3) The applicant must comply with the provisions of ss. 550.125 and 550.1815.

(4) Intertrack wagering under this section may be conducted only on thoroughbred horse racing.

History.--s. 11, ch. 98-190; s. 4, ch. 98-217.

550.6315 Applicability of s. 565.02(5) to guest tracks.--

The provisions of s. 565.02(5) apply to any guest track.

History.--s. 50, ch. 92-348.

550.6325 Uncashed tickets and breakage tax.--

Uncashed tickets and breakage tax on intertrack wagers shall be retained by the permitholder conducting the live racing or games.

History.--s. 51, ch. 92-348.

550.6335 Surcharge.--

(1) Any guest track that accepts intertrack wagers may collect and retain a surcharge on any intertrack pool in an amount not to exceed 3 percent of each winning pari-mutuel ticket cashed.

(2) A thoroughbred horse permitholder that accepts wagers on out-of-state races may impose a surcharge on each winning ticket, or interstate pool, on such out-of-state race in an amount not to exceed 5 percent of each winning pari-mutuel winning ticket cashed. If a permitholder rebroadcasts such signal and elects to impose a surcharge, the surcharge shall be imposed on any winning ticket at any guest facility at the same rate as the surcharge on wagers accepted at its own facility. The proceeds from the surcharge shall be distributed as follows: if the wager is made at the host facility, then one-half of the proceeds shall be retained by the host permitholder and one-half shall be

paid as purses at the host facility; if the wager is made at a guest facility, then one-half shall be retained by the guest permitholder, one-quarter shall be paid to the host permitholder, and one-quarter shall be paid as purses at the host facility.

Any surcharge taken under this section must be calculated after breakage is deducted from the wagering pool.

History.--s. 52, ch. 92-348; s. 18, ch. 96-364.

550.6345 Intertrack wagering; purses when host track is harness racetrack.--

A harness race permitholder

host track may pay any guest track that receives broadcasts and accepts wagers on races from the host track an

additional percentage of the total contribution to the pari-mutuel pool on wagers accepted at that guest track as a

supplement to the payment authorized in s. 550.6305. A harness race permitholder host track that supplements

payments to a guest track may reduce the account available for payment of purses during its current race meet by 50

percent of the supplemental amount paid to the guest track, but the total reduction may not exceed an amount which

is more than 1 percent of the intertrack wagers placed on races that are part of the regular ontrack program of the

host track during its current race meet pursuant to s. 550.615.

History.--s. 53, ch. 92-348.

550.70 Jai alai general provisions; chief court judges required; extension of time to construct fronton; amateur jai alai contests permitted under certain conditions; playing days' limitations; locking of pari-mutuel machines.--

(1) A chief court judge must be present for each jai alai game at which pari-mutuel wagering is authorized. Chief

court judges must be able to demonstrate extensive knowledge of the rules and game of jai alai and be able to meet

the physical requirements of the position. The decisions of a chief court judge are final as to any incident relating to

the playing of a jai alai game.

(2) The time within which the holder of a ratified permit for jai alai or pelota has to construct and complete a

fronton may be extended by the division for a period of 24 months after the date of the issuance of the permit,

anything to the contrary in any statute notwithstanding.

(3) This chapter does not prohibit any fronton, jai alai plant, or facility from being used to conduct amateur jai alai

or pelota contests or games during each fronton season by any charitable, civic, or nonprofit organization for the

purpose of conducting jai alai contests or games if only players other than those usually used in jai alai contests or games are permitted to play and if adults and minors may participate as players or spectators. However, during such jai alai games or contests, betting and gambling and the sale or use of alcoholic beverages are prohibited.

(4) A jai alai player shall not be required to perform on more than 6 consecutive calendar days.

(5) The provisions of s. 550.155(1) allow wagering on points during a game; however, the pari-mutuel machines must be locked upon the start of the serving motion of each serve for wagers on that game.

History.--s. 55, ch. 92-348; s. 1, ch. 95-396; s. 19, ch. 96-364.

550.71 Operation of ch. 96-364.--

If the provisions of any section of this act are held to be invalid or inoperative for any reason, the remaining provisions of this act shall be deemed to be void and of no effect, it being the legislative intent that this act as a whole would not have been adopted had any provision of the act not been included.

History.--s. 25, ch. 96-364.

550.72 Department of State; City of Hialeah; study of Hialeah Park; appropriation; duties and responsibilities; taxation.--

(1) The Department of State, in conjunction with the office of the mayor of the City of Hialeah, is hereby directed to undertake a comprehensive study of the feasibility of state or municipal ownership of Hialeah Park and its operation of a limited race meet pursuant to this section. All references to the "department" for purposes of this section shall mean the Secretary of State.

(2)(a) There is hereby appropriated the sum of \$185,000 from the Pari-Mutuel Wagering Trust Fund to the department. Such funds shall be expended solely and exclusively for a review, analysis, and report to the Senate, the House of Representatives, and the Governor in regard to the feasibility of state or municipal ownership of the property known as Hialeah Park located in Hialeah, Florida, and the pari-mutuel permit held by Hialeah, Inc. The report shall contain the following information:

1. A financial analysis as to the cost of operating the facility as a racetrack, including year-round maintenance expenses.

2. An analysis of other compatible uses for the property, including, but not limited to, amusement, retail shopping development, recreational use, or a museum, that would operate in conjunction with a racetrack, operating a limited racing meet and simulcast program.

3. A recommendation of future revenues that the property could generate.

4. A recommendation as to its future operation and financing.

5. Such other necessary information in regard to the overall health of the thoroughbred industry as will be required to complete the analysis, review, and report to the Senate, the House of Representatives, and the Governor.

(b) The department shall also obtain an appraisal of the land and facilities known as Hialeah Park and the pari-mutuel permit held by Hialeah, Inc., utilizing the information filed in accordance with the provisions of s.

550.125, provided the appraiser shall have no ex parte communications with any party holding a pari-mutuel permit until the conclusion of the appraisal, at which time the appraisal shall become a public record, and available for inspection by all parties. This appraisal shall be completed by November 15, 1998.

(c) None of the funds appropriated pursuant to paragraph (a) shall be expended by the department for any salaries of employees of the department; however, nothing contained herein shall be interpreted to prevent the department from contracting with individuals to oversee, on behalf of the department and the office of the mayor of the City of Hialeah, the means to properly carry out the duties and responsibilities set out in this section.

(d) The analysis, review, and report shall receive at least one public hearing. A final recommendation shall be filed with the Speaker of the House, the President of the Senate, the Governor and the Mayor of the City of Hialeah. Such recommendation shall contain a definitive recommendation by January 31, 1999, as to the following:

1. What part of the property is determined to be necessary and essential for conducting a live racing meet in conjunction with the simulcast program.
2. The projected capital cost of purchase of the property determined in subparagraph 1. and the pari-mutuel permit.
3. A recommendation as to a method of paying the projected capital cost.

(3) In the conduct of the duties and responsibilities set out herein, the department and all employees, agents, and others shall be subject to the provisions of chapter 119, provided that the confidentiality of the appraisal and communications with such appraiser shall be governed by paragraph (2)(b) and provided the appraiser shall have no ex parte communications with any party holding a pari-mutuel permit until the conclusion of the appraisal at which time the appraisal shall become a public record.

History.--s. 12, ch. 98-190.

TITLE XXXVI. BUSINESS ORGANIZATIONS

CHAPTER 616. PUBLIC FAIRS AND EXPOSITIONS

PART I. GENERAL PROVISIONS

616.09 Not authorized to carry on gambling, etc.; forfeiture of charter for violations; annulment proceedings.—

Nothing in this chapter shall be held or construed to authorize or permit any fair association to carry on, conduct, supervise, permit, or suffer any gambling or game of chance, lottery, betting, or other act in violation of the criminal laws of the state; and nothing in this chapter shall permit horseracing or dogracing or any other pari-mutuel wagering, for money or upon which money is placed. Any fair association which violates any such law or which knowingly permits the violation of any such law is subject to forfeiture of its charter; and if any citizen complains to the Department of Legal Affairs that the association was organized for or is being used as a cover to evade any of the laws of Florida against crime, and submits prima facie evidence to sustain the charge, the Department of Legal Affairs shall institute, and in due time prosecute to final judgment, such proceedings as may be necessary to annul the charter and incorporation of the association. A writ of injunction or other extraordinary process shall be issued by a court of competent jurisdiction on the application of the Department of Legal Affairs on complaint pending the annulment proceeding and in aid thereof, and the case shall be given precedence over all civil cases pending in that court and shall be heard and disposed of with as little delay as practicable.

History.--s. 7, ch. 7388, 1917; RGS 4525; CGL 6524; s. 2, ch. 29737, 1955; s. 4, ch. 63-247; ss. 11, 35, ch. 69-106; s. 2, ch. 81-318; ss. 25, 26, ch. 83-239; ss. 11, 44, ch. 93-168.

TITLE XLV. TORTS

CGAOTER 772. CIVIL REMEDIES FOR CRIMINAL PRACTICES

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 which 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, s. 550.3551, or s. 550.3605, 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.
16. Chapter 790, relating to weapons and firearms.
17. Section 796.01, 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.

(b) Any conduct which is subject to indictment or information as a criminal offense and listed in 18 U.S.C. s. 1961(1) (A), (B), (C), or (D).

(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, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.
2. Chapter 550, relating to jai alai frontons.
3. Section 687.071, relating to criminal usury, loan sharking, and shylocking.
4. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious if punishable as a crime under state or federal law.

(3) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and the term includes illicit as well as licit enterprises and governmental, as well as other, entities.

(4) "Pattern of criminal activity" means engaging in at least two incidents of criminal activity that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents; provided that the last of such incidents occurred within 5 years after a prior incident of criminal activity. For the purposes of this chapter, the term "pattern of criminal activity" shall not include two or more incidents of fraudulent conduct arising out of a single contract or transaction against one or more related persons.

(5) "Real property" means any real property or any direct or indirect interest in such real property. An interest in any lease of or mortgage upon real property shall be considered an interest in such real property.

(6) "Related persons" means, as to natural persons, persons who are related by blood within the second degree or who are married and, as to other persons, persons which are substantially under the same direction, ownership, or control, either directly or indirectly.

History.--s. 3, ch. 86-277; s. 3, ch. 90-301; s. 12, ch. 91-33; s. 66, ch. 91-110; s. 4, ch. 92-125; s. 3, ch. 92-281; s. 63, ch. 92-348; s. 2, ch. 93-227; s. 104, ch. 93-415; s. 7, ch. 95-340; s. 106, ch. 96-175; s. 6, ch. 96-252; s. 4, ch. 96-260.

¹Note.--Repealed by s. 2, ch. 93-258.

TITLE XLVI. CRIMES

CHAPTER 849. GAMBLING

849.01 Keeping gambling houses, etc.--

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

History.--s. 1, ch. 3764, 1887; RS 2644; GS 3572; RGS 5499; CGL 7657; s. 1059, ch. 71-136; s. 1355, ch. 97-102.

849.02 Agents or employees of keeper of gambling house.--Whoever acts as servant, clerk, agent, or employee of any person in the violation of s. 849.01 shall be punished in the manner and to the extent therein mentioned.

History.--s. 2, ch. 3764, 1887; RS 2645; GS 3573; RGS 5500; CGL 7658.

849.03 Renting house for gambling purposes.--

Whoever, whether as owner or agent, knowingly rents to another a house, room, booth, tent, shelter or place for the purpose of gaming shall be punished in the manner and to the extent mentioned in s. 849.01.

History.--s. 3, ch. 3764, 1887; RS 2646; GS 3574; RGS 5501; CGL 7659.

849.04 Permitting minors and persons under guardianship to gamble.--

Whoever being the proprietor,

owner or keeper of any E. O., keno or pool table, or billiard table, wheel of fortune, or other game of chance, kept

for the purpose of betting, willfully and knowingly allows any minor or any person who is mentally incompetent or

under guardianship to play at such game or to bet on such game of chance or whoever aids or abets or otherwise

encourages such playing or betting of any money or other valuable thing upon the result of such game of chance by

any minor or any person who is mentally incompetent or under guardianship shall be guilty of a felony of the third

degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purpose of this section, a "mentally

incompetent person" is one who because of mental illness, mental retardation, senility, excessive use of drugs or

alcohol, or other mental incapacity is incapable of either managing his or her property or caring for himself or herself

or both.

History.--s. 1, ch. 3145, 1879; RS 2647; s. 9, ch. 4322, 1895; GS 3575; RGS 5502; CGL 7660; s. 1060, ch. 71-136; s. 5, ch. 88-33; s.

1356, ch. 97-102.

849.05 Prima facie evidence.--

If any of the implements, devices or apparatus commonly used in games of

chance in gambling houses or by gamblers, are found in any house, room, booth, shelter or other place it shall be

prima facie evidence that the said house, room, booth, shelter or other place where the same are found is kept for the

purpose of gambling.

History.--s. 4, ch. 3764, 1887; RS 2648; GS 3576; RGS 5503; CGL 7661; s. 243, ch. 77-104.

849.07 Permitting gambling on billiard or pool table by holder of license.--

If any holder of a license to

operate a billiard or pool table shall permit any person to play billiards or pool or any other game for money, or any

other thing of value, upon such tables, she or he shall be deemed guilty of a misdemeanor of the second degree,

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

History.--s. 14, ch. 6421, 1913; RGS 5505; CGL 7663; s. 1062, ch. 71-136; s. 1357, ch. 97-102.

849.08 Gambling.--

Whoever plays or engages 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, shall be guilty of a misdemeanor of

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

History.--RS 2651; s. 1, ch. 4514, 1895; GS 3579; RGS 5508; CGL 7666; s. 1063, ch. 71-136.

849.085 Certain penny-ante games not crimes; restrictions.--

(1) Notwithstanding any other provision of law, it is not a crime for a person to participate in a game described in

this section if such game is conducted strictly in accordance with this section.

(2) As used in this section:

(a) "Penny-ante game" means a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg in which the winnings of any player in a single round, hand, or game do not exceed \$10 in value.

(b) "Dwelling" means residential premises owned or rented by a participant in a penny-ante game and occupied by such participant or the common elements or recreational areas of a condominium or mobile home park of which a participant in a penny-ante game is a unit owner, or the facilities of an organization which is tax exempt under s. 501(c)(7) of the Internal Revenue Code. The term "dwelling" also includes a college dormitory room or the common recreational area of a college dormitory or a publicly owned community center owned by a municipality or county.

(3) A penny-ante game is subject to the following restrictions:

(a) The game must be conducted in a dwelling.

(b) A person may not receive any consideration or commission for allowing a penny-ante game to occur in his or her dwelling.

(c) A person may not directly or indirectly charge admission or any other fee for participation in the game.

(d) A person may not solicit participants by means of advertising in any form, advertise the time or place of any penny-ante game, or advertise the fact that he or she will be a participant in any penny-ante game.

(e) A penny-ante game may not be conducted in which any participant is under 18 years of age.

(4) A debt created or owed as a consequence of any penny-ante game is not legally enforceable.

(5) The conduct of any penny-ante game within the common elements or recreation area of a condominium or mobile home park or the conduct of any penny-ante game within the dwelling of an eligible organization as defined in subsection (2) or within a publicly owned community center owned by a municipality or county creates no civil liability for damages arising from the penny-ante game on the part of a condominium association, mobile home

owner's association, dwelling owner, or municipality or county or on the part of a unit owner who was not a participant in the game.

History.--s. 1, ch. 89-366; s. 33, ch. 91-197; s. 1358, ch. 97-102.

849.086 Cardrooms authorized.--

(1) LEGISLATIVE INTENT.--It is the intent of the Legislature to provide additional entertainment choices for the residents of and visitors to the state, promote tourism in the state, and provide additional state revenues through the authorization of the playing of certain games in the state at facilities known as cardrooms which are to be located at licensed pari-mutuel facilities. To ensure the public confidence in the integrity of authorized cardroom operations, this act is designed to strictly regulate the facilities, persons, and procedures related to cardroom operations. Furthermore, the Legislature finds that authorized games as herein defined are considered to be pari-mutuel style games and not casino gaming because the participants play against each other instead of against the house.

(2) DEFINITIONS.--As used in this section:

(a) "Authorized games" means only those games authorized by s. 849.085(2)(a) and which are played in a nonbanking manner.

(b) "Banking game" means a game in which the house is a participant in the game, taking on players, paying winners, and collecting from losers or in which the cardroom establishes a bank against which participants play.

(c) "Cardroom" means 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. Authorized games and cardrooms do not constitute casino gaming operations.

(d) "Cardroom management company" means any individual not an employee of the cardroom operator, any proprietorship, partnership, corporation, or other entity that enters into an agreement with a cardroom operator to manage, operate, or otherwise control the daily operation of a cardroom.

(e) "Cardroom distributor" means any business that distributes cardroom paraphernalia such as card tables, betting chips, chip holders, drop boxes, banking supplies, playing cards, card shufflers, and other associated equipment to authorized cardrooms.

(f) "Cardroom operator" means a licensed pari-mutuel permit holder which holds a valid permit and license issued

by the division pursuant to chapter 550 and which also holds a valid cardroom license issued by the division pursuant to this section which authorizes such person to operate a cardroom and to conduct authorized games in such cardroom.

(g) "Division" means the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.

(h) "Gross receipts" means the total amount of money received by a cardroom from any person for participation in authorized games.

(i) "House" means the cardroom operator and all employees of the cardroom operator.

(j) "Net proceeds" means the total amount of gross receipts received by a cardroom operator from cardroom operations less direct operating expenses related to cardroom operations, including labor costs, admission taxes only if a separate admission fee is charged for entry to the cardroom facility, gross receipts taxes imposed on cardroom operators by this section, the annual cardroom license fees imposed by this section on each table operated at a cardroom, and reasonable promotional costs excluding officer and director compensation, interest on capital debt, legal fees, real estate taxes, bad debts, contributions or donations, or overhead and depreciation expenses not directly related to the operation of the cardrooms.

(k) "Rake" means a set fee or percentage of the pot assessed by a cardroom operator for providing the services of a dealer, table, or location for playing the authorized game.

(3) CARDROOM AUTHORIZED.--Notwithstanding any other provision of law, it is not a crime for a person to participate in an authorized game at a licensed cardroom or to operate a cardroom described in this section if such game and cardroom operation are conducted strictly in accordance with the provisions of this section.

(4) AUTHORITY OF DIVISION.--The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation shall administer this section and regulate the operation of cardrooms under this section and the rules adopted pursuant thereto, and is hereby authorized to:

(a) Adopt rules, including, but not limited to: the issuance of cardroom and employee licenses for cardroom operations; the operation of a cardroom; recordkeeping and reporting requirements; and the collection of all fees and taxes imposed by this section.

(b) Conduct investigations and monitor the operation of cardrooms and the playing of authorized games therein.

(c) Review the books, accounts, and records of any current or former cardroom operator.

(d) Suspend or revoke any license or permit, after hearing, for any violation of the provisions of this section or the administrative rules adopted pursuant thereto.

(e) Take testimony, issue summons and subpoenas for any witness, and issue subpoenas duces tecum in connection with any matter within its jurisdiction.

(f) Monitor and ensure the proper collection of taxes and fees imposed by this section. Permitholder internal controls are mandated to ensure no compromise of state funds. To that end, a roaming division auditor will monitor and verify the cash flow and accounting of cardroom revenue for any given operating day.

(5) LICENSE REQUIRED; APPLICATION; FEES.--No person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(a) Only those persons holding a valid cardroom license issued by the division may operate a cardroom. A cardroom license may only be issued to a licensed pari-mutuel permitholder and an authorized cardroom may only be operated at the same facility at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities. Cardroom licenses are not transferable.

(b) After the initial cardroom license is granted, the application for the annual license renewal shall be made in conjunction with the applicant's annual application for its pari-mutuel license. In order for a cardroom license to be renewed the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto.

(c) Persons seeking a license or a renewal thereof to operate a cardroom shall make application on forms prescribed by the division. Applications for cardroom licenses shall contain all of the information the division, by rule, may determine is required to ensure eligibility.

(d) The annual cardroom license fee shall be \$1,000 for the first table and \$500 for each additional table to be operated at the cardroom. This license fee shall be deposited by the division with the Treasurer to the credit of the Pari-mutuel Wagering Trust Fund.

(6) BUSINESS AND EMPLOYEE OCCUPATIONAL LICENSE REQUIRED; APPLICATION; FEES.--

(a) A person employed or otherwise working in a cardroom as a cardroom manager, floor supervisor, pit boss, dealer, or any other activity related to cardroom operations while the facility is conducting card playing must hold a

valid cardroom employee occupational license issued by the division. Food service, maintenance, and security employees with a current pari-mutuel occupational license and a current background check will not be required to have a cardroom employee occupational license.

(b) Any cardroom management company or cardroom distributor associated with cardroom operations must hold a valid cardroom business occupational license issued by the division.

(c) No licensed cardroom operator may employ or allow to work in a cardroom any person unless such person holds a valid occupational license. No licensed cardroom operator may contract, or otherwise do business with, a business required to hold a valid cardroom business occupational license, unless the business holds such a valid license.

(d) The division shall establish, by rule, a schedule for the annual renewal of cardroom occupational licenses. Cardroom occupational licenses are not transferable.

(e) Persons seeking cardroom occupational licenses, or renewal thereof, shall make application on forms prescribed by the division. Applications for cardroom occupational licenses shall contain all of the information the division, by rule, may determine is required to ensure eligibility.

(f) The division shall promulgate rules regarding cardroom occupational licenses. The provisions specified in s. 550.105(3), (4), (5), (6), (7), and (9) relating to licensure shall be applicable to cardroom occupational licenses.

(g) The division may deny, declare ineligible, or revoke any cardroom occupational license if the applicant or holder thereof has been found guilty or had adjudication withheld in this state or any other state, or under the laws of the United States of a felony or misdemeanor involving forgery, larceny, extortion, conspiracy to defraud, or filing false reports to a government agency, racing or gaming commission or authority.

(h) Fingerprints for all cardroom occupational license applications shall be taken in a manner approved by the division and then shall be submitted to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a criminal records check upon initial application and every 5 years thereafter. The division may by rule require an annual record check of all renewal applications for a cardroom occupational license. The cost of processing fingerprints and conducting a record check shall be borne by the applicant.

(i) The cardroom employee occupational license fee shall be \$50. The cardroom business occupational license fee shall be \$250.

(7) CONDITIONS FOR OPERATING A CARDROOM.--

(a) A cardroom may only be operated at the location specified on the cardroom license issued by the division, and such location may only be the location at which the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit and current license.

(b) A cardroom may be operated at the facility only when the facility is authorized to accept wagers on pari-mutuel events during its authorized meet. A cardroom may begin operations within 2 hours prior to the post time of the first pari-mutuel event conducted live at the pari-mutuel facility on which wagers are accepted and must cease operations within 2 hours after the conclusion of the last pari-mutuel event conducted live at the pari-mutuel facility on which wagers are accepted.

(c) A cardroom operator must at all times employ and provide a nonplaying dealer for each table on which authorized card games which traditionally utilize a dealer are conducted at the cardroom. Such dealers may not have any participatory interest in any game other than the dealing of cards and may not have an interest in the outcome of the game. The providing of such dealers by a licensee shall not be construed as constituting the conducting of a banking game by the cardroom operator.

(d) Each cardroom operator shall conspicuously post upon the premises of the cardroom a notice which contains a copy of the cardroom license; a list of authorized games offered by the cardroom; the wagering limits imposed by the house, if any; any additional house rules regarding operation of the cardroom or the playing of any game; and all costs to players to participate, including any rake by the house. In addition, each cardroom operator shall post at each table a notice of the minimum and maximum bets authorized at such table and the fee for participation in the game conducted.

(e) The cardroom facility shall be subject to inspection by the division or any law enforcement agency during the licensee's regular business hours. The inspection will specifically encompass the permitholder internal control procedures approved by the division.

(f) A cardroom operator may refuse entry to or refuse to allow to play any person who is objectionable, undesirable, or disruptive, but such refusal shall not be on the basis of race, creed, color, religion, sex, national origin, marital status, physical handicap, or age, except as provided in this section.

(8) METHOD OF WAGERS; LIMITATION.--

(a) No wagering may be conducted using money or other negotiable currency. Games may only be played utilizing a wagering system whereby all players' money is first converted by the house to tokens or chips which shall be used for wagering only at that specific cardroom.

(b) The winnings of any player in a single round, hand, or game may not exceed \$10 in value. The fee charged by the cardroom for participation in the game shall not be included in the calculation of the limitation on the pot size provided in this paragraph.

(9) BOND REQUIRED.--The holder of a cardroom license shall be financially and otherwise responsible for the operation of the cardroom and for the conduct of any manager, dealer, or other employee involved in the operation of the cardroom. Prior to the issuance of a cardroom license, each applicant for such license shall provide evidence of a surety bond in the amount of \$50,000, payable to the state, furnished by a corporate surety authorized to do business in the state or evidence that the licensee's pari-mutuel bond required by s. 550.125 has been expanded to include the applicant's cardroom operation. The bond shall guarantee that the cardroom operator will redeem, for cash, all tokens or chips used in games. Such bond shall be kept in full force and effect by the operator during the term of the license.

(10) FEE FOR PARTICIPATION.--The cardroom operator may charge a fee for the right to participate in games conducted at the cardroom. Such fee may be either a flat fee or hourly rate for the use of a seat at a table or a rake subject to the posted maximum amount but may not be based on the amount won by players. The rake-off, if any, must be made in an obvious manner and placed in a designated rake area which is clearly visible to all players. Notice of the amount of the participation fee charged shall be posted in a conspicuous place in the cardroom and at each table at all times.

(11) RECORDS AND REPORTS.--

(a) Each licensee operating a cardroom shall keep and maintain permanent daily records of its cardroom operation and shall maintain such records for a period of not less than 3 years. These records shall include all financial transactions and contain sufficient detail to determine compliance with the requirements of this section. All records shall be available for audit and inspection by the division or other law enforcement agencies during the licensee's regular business hours. The information required in such records shall be determined by division rule.

(b) Each licensee operating a cardroom shall file with the division a report containing the required records of such cardroom operation. Such report shall be filed monthly by licensees. The required reports shall be submitted on forms prescribed by the division and shall be due at the same time as the monthly pari-mutuel reports are due to the division, and such reports shall contain any additional information deemed necessary by the division, and the reports shall be deemed public records once filed.

(12) PROHIBITED ACTIVITIES.--

(a) No person licensed to operate a cardroom may conduct any banking game or any game not specifically authorized by this section.

(b) No person under 18 years of age may be permitted to hold a cardroom or employee license, or engage in any game conducted therein.

(c) No electronic or mechanical devices, except mechanical card shufflers, may be used to conduct any authorized game in a cardroom.

(d) No cards, game components, or game implements may be used in playing an authorized game unless such has been furnished or provided to the players by the cardroom operator.

(13) TAXES AND OTHER PAYMENTS.--

(a) Each cardroom operator shall pay a tax to the state of 10 percent of the cardroom operation's monthly gross receipts.

(b) An admission tax equal to 15 percent of the admission charge for entrance to the licensee's cardroom facility, or 10 cents, whichever is greater, is imposed on each person entering the cardroom. This admission tax shall apply only if a separate admission fee is charged for entry to the cardroom facility. If a single admission fee is charged which authorizes entry to both or either the pari-mutuel facility and the cardroom facility, the admission tax shall be payable only once and shall be payable pursuant to chapter 550. The cardroom licensee shall be responsible for collecting the admission tax. An admission tax is imposed on any free passes or complimentary cards issued to guests by licensees in an amount equal to the tax imposed on the regular and usual admission charge for entrance to the licensee's cardroom facility. A cardroom licensee may issue tax-free passes to its officers, officials, and employees or other persons actually engaged in working at the cardroom, including accredited press representatives such as reporters and editors, and may also issue tax-free passes to other cardroom licensees for the use of their officers and officials. The licensee shall file with the division a list of all persons to whom tax-free passes are issued.

(c) Payment of the admission tax and gross receipts tax imposed by this section shall be paid to the division. The division shall deposit these sums with the Treasurer, one-half being credited to the Pari-mutuel Wagering Trust Fund and one-half being credited to the General Revenue Fund. The cardroom licensee shall remit to the division payment for the admission tax, the gross receipts tax, and the licensee fees. Such payments shall be remitted to the division on

the fifth day of each calendar month for taxes and fees imposed for the preceding month's cardroom activities.

Licensees shall file a report under oath by the fifth day of each calendar month for all taxes remitted during the preceding calendar month. Such report shall, under oath, indicate the total of all admissions, the cardroom activities for the preceding calendar month, and such other information as may be prescribed by the division.

(d) Each greyhound and jai alai permitholder which operates a cardroom facility shall utilize at least 4 percent of

such permitholder's cardroom monthly gross receipts to supplement greyhound purses or jai alai prize money,

respectively, during the permitholder's next ensuing pari-mutuel meet. Each thoroughbred and harness horse racing

permitholder which operates a cardroom facility shall utilize at least 50 percent of such permitholder's cardroom

monthly net proceeds as follows: 47 percent to supplement purses and 3 percent to supplement breeders' awards

during the permitholder's next ensuing racing meet.

(e) The failure of any licensee to make payments as prescribed in paragraph (c) is a violation of this section, and

the licensee may be subjected by the division to a civil penalty of up to \$1,000 for each day the tax payment is not

remitted. All penalties imposed and collected shall be deposited in the General Revenue Fund. If a licensee fails to

pay penalties imposed by order of the division under this subsection, the division may suspend or revoke the license

of the cardroom operator or deny issuance of any further license to the cardroom operator.

(f) The cardroom shall be deemed an accessory use to a licensed pari-mutuel operation and, except as provided

in chapter 550, a municipality, county, or political subdivision may not assess or collect any additional license tax,

sales tax, or excise tax on such cardroom operation.

(g) All of the moneys deposited in the Pari-mutuel Wagering Trust Fund, except as set forth in paragraph (h), shall

be utilized and distributed in the manner specified in s. 550.135(3) and (4). However, cardroom tax revenues shall be

kept separate from pari-mutuel tax revenues and shall not be used for making the disbursement to counties provided

in s. 550.135(1).

(h) One-quarter of the moneys deposited into the Pari-mutuel Wagering Trust Fund pursuant to paragraph (g)

shall, by October 1 of each year, be distributed to counties in which the cardrooms are located; however, if two or

more pari-mutuel racetracks are located within the same incorporated municipality, the cardroom funds shall be

distributed to the municipality. If a pari-mutuel facility is situated in such a manner that it is located in more than one

county, the site of the cardroom facility shall determine the location for purposes of disbursement of tax revenues

under this paragraph. The division shall, by September 1 of each year, determine: the amount of taxes deposited into

the Pari-mutuel Wagering Trust Fund pursuant to this section from each cardroom licensee; the location by county of each cardroom; whether the cardroom is located in the unincorporated area of the county or within an incorporated municipality; and, the total amount to be distributed to each eligible county and municipality.

(14) SUSPENSION, REVOCATION, OR DENIAL OF LICENSE; FINE.--

(a) The division may deny a license or the renewal thereof, or may suspend or revoke any license, when the applicant has: violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto; knowingly caused, aided, abetted, or conspired with another to cause any person to violate this section or any rules adopted pursuant thereto; or obtained a license or permit by fraud, misrepresentation, or concealment; or if the holder of such license or permit is no longer eligible under this section.

(b) If a pari-mutuel permitholder's pari-mutuel permit or license is suspended or revoked by the division pursuant to chapter 550, the division may, but is not required to, suspend or revoke such permitholder's cardroom license. If a cardroom operator's license is suspended or revoked pursuant to this section, the division may, but is not required to, suspend or revoke such licensee's pari-mutuel permit or license.

(c) Notwithstanding any other provision of this section, the division may impose an administrative fine not to exceed \$1,000 for each violation against any person who has violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto.

(15) CRIMINAL PENALTY; INJUNCTION.--

(a)1. Any person who operates a cardroom without a valid license issued as provided in this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any licensee or permitholder who violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any licensee or permitholder who commits a second or subsequent violation of the same paragraph or subsection within a period of 3 years from the date of a prior conviction for a violation of such paragraph or subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The division, any state attorney, the statewide prosecutor, or the Attorney General may apply for a temporary or permanent injunction restraining further violation of this section, and such injunction shall issue without bond.

849.09 Lottery prohibited; exceptions.--

- (1) It is unlawful for any person in this state to:
- (a) Set up, promote, or conduct any lottery for money or for anything of value;
 - (b) Dispose of any money or other property of any kind whatsoever by means of any lottery;
 - (c) 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;
 - (d) 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;
 - (e) Attempt to operate, conduct, or advertise any lottery scheme or device;
 - (f) Have in her or his possession any lottery wheel, implement, or device whatsoever for conducting any lottery or scheme for the disposal by lot or chance of anything of value;
 - (g) Sell, offer for sale, or transmit, in person or by mail or in any other manner whatsoever, any lottery ticket, coupon, or share, or any share in or fractional part of any lottery ticket, coupon, or share, whether such coupon, or share represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played;
 - (h) Have in her or his possession any lottery ticket, or any evidence of any share or right in any lottery ticket, or in any lottery scheme or device, whether such ticket or evidence of share or right represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played;
 - (i) Aid or assist in the sale, disposal, or procurement of any lottery ticket, coupon, or share, or any right to any drawing in a lottery; or
 - (j) Have in her or his possession any lottery advertisement, circular, poster, or pamphlet, or any list or schedule of any lottery prizes, gifts, or drawings.
 - (k) Have in her or his possession any so-called "run down sheets," tally sheets, or other papers, records, instruments, or paraphernalia designed for use, either directly or indirectly, in, or in connection with, the violation of the laws of this state prohibiting lotteries and gambling.

Provided, that nothing in this section shall prohibit participation in any nationally advertised contest, drawing, game or puzzle of skill or chance for a prize or prizes unless it can be construed as a lottery under this section; and, provided further, that this exemption for national contests shall not apply to any such contest based upon the outcome or results of any horserace, harness race, dograce, or jai alai game.

(2) Any person who is convicted of violating any of the provisions of paragraph (a), paragraph (b), paragraph (c), or paragraph (d) of subsection (1) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who is convicted of violating any of the provisions of paragraph (e), paragraph (f), paragraph (g), paragraph (i), or paragraph (k) of subsection (1) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who, having been convicted of violating any provision thereof, thereafter violates any provision thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The provisions of this section do not apply to bingo as provided for in s. 849.0931.

(4) Any person who is convicted of violating any of the provisions of paragraph (h) or paragraph (j) of subsection (1) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who, having been convicted of violating any provision thereof, thereafter violates any provision thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 1, ch. 4373, 1895; GS 3582; RGS 5509; CGL 7667; s. 1, ch. 26765, 1951; s. 1, ch. 67-72; s. 1, ch. 67-435; ss. 1, 2, ch. 69-91; s. 1064, ch. 71-136; s. 168, ch. 83-216; s. 4, ch. 91-206; ss. 4, 6, ch. 92-280; s. 1, ch. 93-160; s. 1359, ch. 97-102.

849.091 Chain letters, pyramid clubs, etc., declared a lottery; prohibited; penalties.--

(1) The organization of any chain letter club, pyramid club, or other group organized or brought together under any plan or device whereby fees or dues or anything of material value to be paid or given by members thereof are to be paid or given to any other member thereof, which plan or device includes any provision for the increase in such membership through a chain process of new members securing other new members and thereby advancing themselves in the group to a position where such members in turn receive fees, dues, or things of material value from other members, is hereby declared to be a lottery, and whoever shall participate in any such lottery by becoming a

member of, or affiliating with, any such group or organization or who shall solicit any person for membership or affiliation in any such group or organization commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A "pyramid sales scheme," which is any sales or marketing plan or operation whereby a person pays a consideration of any kind, or makes an investment of any kind, in excess of \$100 and acquires the opportunity to receive a benefit or thing of value which is not primarily contingent on the volume or quantity of goods, services, or other property sold in bona fide sales to consumers, and which is related to the inducement of additional persons, by himself or herself or others, regardless of number, to participate in the same sales or marketing plan or operation, is hereby declared to be a lottery, and whoever shall participate in any such lottery by becoming a member of or affiliating with, any such group or organization or who shall solicit any person for membership or affiliation in any such group or organization commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For purposes of this subsection, the term "consideration" and the term "investment" do not include the purchase of goods or services furnished at cost for use in making sales, but not for resale, or time and effort spent in the pursuit of sales or recruiting activities.

History.--s. 1, ch. 25096, 1949; s. 1065, ch. 71-136; s. 1, ch. 91-15; s. 215, ch. 91-224; s. 1360, ch. 97-102.

849.0915 Referral selling.--

(1) Referral selling, whereby the seller gives or offers a rebate or discount to the buyer as an inducement for a sale in consideration of the buyer's providing the seller with the names of prospective purchasers, is declared to be a lottery if earning the rebate or discount is contingent upon the occurrence of an event subsequent to the time the buyer agrees to buy.

(2) Any person conducting a lottery by referral selling is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) In addition to the penalty provided herein, the Attorney General and her or his assistants, the state attorneys and their assistants, and the Division of Consumer Services of the Department of Agriculture and Consumer Services are authorized to apply to the circuit court within their respective jurisdictions, and such court shall have jurisdiction, upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating

the provisions of this section, whether or not there exists an adequate remedy at law, and such injunction shall issue without bond.

History.--s. 1, ch. 72-110; s. 34, ch. 73-334; s. 1361, ch. 97-102.

849.092 Retail merchandising business; certain activities permitted.--

The provisions of s. 849.09 shall not

be construed to prohibit or prevent persons who are licensed to conduct business under s. 206.404, from giving

away prizes to persons selected by lot, if such prizes are made on the following conditions:

(1) Such gifts are conducted as advertising and promotional undertakings, in good faith, solely for the purpose of

advertising the goods, wares, merchandise and business of such licensee; and

(2) The principal business of such licensee is the business permitted to be licensed under s. 206.404; and

(3) No person to be eligible to receive such gift shall ever be required to:

(a) Pay any tangible consideration to such licensee in the form of money or other property or thing of value, or

(b) Purchase any goods, wares, merchandise or anything of value from such licensee.

(4) The person selected to receive any such gift or prize offered by any such licensee in connection with any such

advertising or promotion is notified of his or her selection at his or her last known address. Newspapers, magazines,

television and radio stations may, without violating any law, publish and broadcast advertising matter describing such

advertising and promotional undertakings of such licensees which may contain instructions pursuant to which persons

desiring to become eligible for such gifts or prizes may make their name and address known to such licensee.

(5) All brochures, advertisements, promotional material, and entry blanks promoting such undertakings shall

contain a clause stating that residents of Florida are entitled to participate in such undertakings and are eligible to win

gifts or prizes.

History.--s. 1, ch. 63-553; s. 1, ch. 65-261; s. 1, ch. 71-287; s. 244, ch. 77-104; s. 1362, ch. 97-102.

849.0931 Bingo authorized; conditions for conduct; permitted uses of proceeds; limitations.--

(1) As used in this section:

(a) "Bingo game" means and refers to the activity, commonly known as "bingo," in which participants pay a sum of

money for the use of one or more bingo cards. When the game commences, numbers are drawn by chance, one by one, and announced. The players cover or mark those numbers on the bingo cards which they have purchased until a player receives a given order of numbers in sequence that has been preannounced for that particular game. This player calls out "bingo" and is declared the winner of a predetermined prize. More than one game may be played upon a bingo card, and numbers called for one game may be used for a succeeding game or games.

(b) "Bingo card" means and refers to the flat piece of paper or thin pasteboard employed by players engaged in the game of bingo. The bingo card shall have not fewer than 24 playing numbers printed on it. These playing numbers shall range from 1 through 75, inclusive. More than one set of bingo numbers may be printed on any single piece of paper.

(c) "Charitable, nonprofit, or veterans' organization" means an organization which has qualified for exemption from federal income tax as an exempt organization under the provisions of s. 501(c) of the Internal Revenue Code of 1954 or s. 528 of the Internal Revenue Code of 1986, as amended; which is engaged in charitable, civic, community, benevolent, religious, or scholastic works or other similar activities; and which has been in existence and active for a period of 3 years or more.

(d) "Objects" means a set of 75 balls or other precision shapes that are imprinted with letters and numbers in such a way that numbers 1 through 15 are marked with the letter "B," numbers 16 through 30 are marked with the letter "I," numbers 31 through 45 are marked with the letter "N," numbers 46 through 60 are marked with the letter "G," and numbers 61 through 75 are marked with the letter "O."

(e) "Rack" means the container in which the objects are placed after being drawn and announced.

(f) "Receptacle" means the container from which the objects are drawn or ejected.

(g) "Session" means a designated set of games played in a day or part of a day.

(2)(a) None of the provisions of this chapter shall be construed to prohibit or prevent charitable, nonprofit, or veterans' organizations engaged in charitable, civic, community, benevolent, religious, or scholastic works or other similar endeavors, which organizations have been in existence and active for a period of 3 years or more, from conducting bingo games, provided the entire proceeds derived from the conduct of such games, less actual business expenses for articles designed for and essential to the operation, conduct, and playing of bingo, are donated by such organizations to the endeavors mentioned above. In no case may the net proceeds from the conduct of such games be used for any other purpose whatsoever. The proceeds derived from the conduct of bingo games shall not be

considered solicitation of public donations.

(b) It is the express intent of the Legislature that no charitable, nonprofit, or veterans' organization serve as a sponsor of a bingo game conducted by another, but such organization may only be directly involved in the conduct of such a game as provided in this act.

(3) If an organization is not engaged in efforts of the type set out above, its right to conduct bingo games hereunder is conditioned upon the return of all the proceeds from such games to the players in the form of prizes. If at the conclusion of play on any day during which a bingo game is allowed to be played under this section there remain proceeds which have not been paid out as prizes, the organization conducting the game shall at the next scheduled day of play conduct bingo games without any charge to the players and shall continue to do so until the proceeds carried over from the previous days played have been exhausted. This provision in no way extends the limitation on the number of prize or jackpot games allowed in one day as provided for in subsection (5).

(4) The right of a condominium association, a mobile home owners' association, a group of residents of a mobile home park as defined in chapter 723, or a group of residents of a mobile home park or recreational vehicle park as defined in chapter 513 to conduct bingo is conditioned upon the return of the net proceeds from such games to players in the form of prizes after having deducted the actual business expenses for such games for articles designed for and essential to the operation, conduct, and playing of bingo. Any net proceeds remaining after paying prizes may be donated by the association to a charitable, nonprofit, or veterans' organization which is exempt from federal income tax under the provisions of s. 501(c) of the Internal Revenue Code to be used in such recipient organization's charitable, civic, community, benevolent, religious, or scholastic works or similar activities or, in the alternative, such remaining proceeds shall be used as specified in subsection (3).

(5) No jackpot shall exceed the value of \$250 in actual money or its equivalent, and there shall be no more than three jackpots in any one session of bingo.

(6) The number of days per week during which organizations authorized hereunder may conduct bingo may not exceed two.

(7) There shall be no more than three jackpots on any one day of play. All other game prizes shall not exceed \$50.

(8) Each person involved in the conduct of any bingo game must be a resident of the community where the organization is located and a bona fide member of the organization sponsoring such game and may not be

compensated in any way for operation of such bingo game. When bingo games are conducted by a charitable, nonprofit, or veterans' organization, the organization conducting the bingo games shall be required to designate up to three members of that organization to be in charge of the games, one of whom shall be present during the entire session at which the bingo games are conducted. The organization conducting the bingo games is responsible for posting a notice, which notice states the name of the organization and the designated member or members, in a conspicuous place on the premises at which the session is held. In no event may a caller in a bingo game be a participant in that bingo game.

(9) Every charitable, nonprofit, or veterans' organization involved in the conduct of a bingo game must be located in the county, or within a 15-mile radius of, where the bingo game is located.

(10)(a) No one under 18 years of age shall be allowed to play any bingo game or be involved in the conduct of a bingo game in any way.

(b) Any organization conducting bingo open to the public may refuse entry to any person who is objectionable or undesirable to the sponsoring organization, but such refusal of entry shall not be on the basis of race, creed, color, religion, sex, national origin, marital status, or physical handicap.

(11) Bingo games may be held only on the following premises:

(a) Property owned by the charitable, nonprofit, or veterans' organization.

(b) Property owned by the charitable, nonprofit, or veterans' organization that will benefit by the proceeds.

(c) Property leased for a period of not less than 1 year by a charitable, nonprofit, or veterans' organization, providing the lease or rental agreement does not provide for the payment of a percentage of the proceeds generated at such premises to the lessor or any other party and providing the rental rate for such premises does not exceed the rental rates charged for similar premises in the same locale.

(d) Property owned by a municipality or a county when the governing authority has, by appropriate ordinance or resolution, specifically authorized the use of such property for the conduct of such games.

(e) With respect to bingo games conducted by a condominium association, a mobile home owners' association, a group of residents of a mobile home park as defined in chapter 723, or a group of residents of a mobile home park or recreational vehicle park as defined in chapter 513, property owned by the association, property owned by the residents of the mobile home park or recreational vehicle park, or property which is a common area located within the condominium, mobile home park, or recreational vehicle park.

(12) Each bingo game shall be conducted in accordance with the following rules:

(a) The objects, whether drawn or ejected, shall be essentially equal as to size, shape, weight, and balance and as to all other characteristics that may control their selection from the receptacle. The caller shall cancel any game if, during the course of a game, the mechanism used in the drawing or ejection of objects becomes jammed in such a manner as to interfere with the accurate determination of the next number to be announced or if the caller determines that more than one object is labeled with the same number or that there is a number to be drawn without a corresponding object. Any player in a game canceled pursuant to this paragraph shall be permitted to play the next game free of charge.

(b) Prior to commencement of any bingo session, the member in charge shall cause a verification to be made of all objects to be placed in the receptacle and shall inspect the objects in the presence of a disinterested person to ensure that all objects are present and that there are no duplications or omissions of numbers on the objects. Any player shall be entitled to call for a verification of numbers before, during, and after a session.

(c) The card or sheet on which the game is played shall be part of a deck, group, or series, no two of which may be alike in any given game.

(d) All numbers shall be visibly displayed after being drawn and before being placed in the rack.

(e) A bona fide bingo shall consist of a predesignated arrangement of numbers on a card or sheet that correspond with the numbers on the objects drawn from the receptacle and announced. Errors in numbers announced or misplaced in the rack may not be recognized as a bingo.

(f) When a caller has started to vocally announce a number, the caller shall complete the call. If any player has obtained a bingo on a previous number, such player will share the prize with the player who gained bingo on the last number called.

(g) Numbers on the winning cards or sheets shall be announced and verified in the presence of another player.

Any player shall be entitled at the time the winner is determined to call for a verification of numbers drawn. The verification shall be in the presence of the member designated to be in charge of the occasion or, if such person is also the caller, in the presence of an officer of the licensee.

(h) Upon determining a winner, the caller shall ask, "Are there any other winners?" If no one replies, the caller shall declare the game closed. No other player is entitled to share the prize unless she or he has declared a bingo prior to this announcement.

(i) Seats may not be held or reserved by an organization or person involved in the conduct of any bingo game for players not present, nor may any cards be set aside, held, or reserved from one session to another for any player.

(13) Any organization or other person who willfully and knowingly violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For a second or subsequent offense, the organization or other person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--ss. 1, 6, ch. 92-280; s. 1, ch. 93-160; s. 1, ch. 94-326; s. 1363, ch. 97-102.

849.0935 Charitable, nonprofit organizations; drawings by chance; required disclosures; unlawful acts and practices; penalties.--

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

(a) "Drawing by chance" or "drawing" means an enterprise in which, from the entries submitted by the public to the organization conducting the drawing, one or more entries are selected by chance to win a prize. The term "drawing" does not include those enterprises, commonly known as "matching," "instant winner," or "preselected sweepstakes," which involve the distribution of winning numbers, previously designated as such, to the public.

(b) "Organization" means an organization which is exempt from federal income taxation pursuant to 26 U.S.C. s. 501(c)(3), (4), (7), (8), (10), or (19), and which has a current determination letter from the Internal Revenue Service, and its bona fide members or officers.

(2) The provisions of s. 849.09 shall not be construed to prohibit an organization qualified under 26 U.S.C. s. 501(c)(3), (4), (7), (8), (10), or (19) from conducting drawings by chance pursuant to the authority granted by this section, provided the organization has complied with all applicable provisions of chapter 496.

(3) All brochures, advertisements, notices, tickets, or entry blanks used in connection with a drawing by chance shall conspicuously disclose:

(a) The rules governing the conduct and operation of the drawing.

(b) The full name of the organization and its principal place of business.

(c) The source of the funds used to award cash prizes or to purchase prizes.

(d) The date, hour, and place where the winner will be chosen and the prizes will be awarded, unless the

brochures, advertisements, notices, tickets, or entry blanks are not offered to the public more than 3 days prior to the drawing.

(e) That no purchase or contribution is necessary.

(4) It is unlawful for any organization which, pursuant to the authority granted by this section, promotes, operates, or conducts a drawing by chance:

(a) To design, engage in, promote, or conduct any drawing in which the winner is predetermined by means of matching, instant win, or preselected sweepstakes or otherwise or in which the selection of the winners is in any way rigged;

(b) To require an entry fee, donation, substantial consideration, payment, proof of purchase, or contribution as a condition of entering the drawing or of being selected to win a prize. However, this provision shall not prohibit an organization from suggesting a minimum donation or from including a statement of such suggested minimum donation on any printed material utilized in connection with the fundraising event or drawing;

(c) To condition the drawing on a minimum number of tickets having been disbursed to contributors or on a minimum amount of contributions having been received;

(d) To arbitrarily remove, disqualify, disallow, or reject any entry or to discriminate in any manner between entrants who gave contributions to the organization and those who did not give such contributions;

(e) To fail to promptly notify, at the address set forth on the entry blank, any person, whose entry is selected to win, of the fact that he or she won;

(f) To fail to award all prizes offered;

(g) To print, publish, or circulate literature or advertising material used in connection with the drawing which is false, deceptive, or misleading;

(h) To cancel a drawing; or

(i) To condition the acquisition or giveaway of any prize upon the receipt of voluntary donations or contributions.

(5) The organization conducting the drawing may limit the number of tickets distributed to each drawing entrant.

(6) A violation of this section is a deceptive and unfair trade practice.

(7) Any organization which engages in any act or practice in violation of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. However, any organization or other person

who sells or offers for sale in this state a ticket or entry blank for a raffle or other drawing by chance, without complying with the requirements of paragraph (3)(d), is guilty of a misdemeanor of the second degree, punishable by fine only as provided in s. 775.083.

(8) This section does not apply to the state lottery operated pursuant to chapter 24.

History.--s. 1, ch. 84-181; ss. 1, 2, ch. 88-115; s. 216, ch. 91-224; s. 1, ch. 96-253; s. 1825, ch. 97-102; s. 1, ch. 97-108.

849.094 Game promotion in connection with sale of consumer products or services.--

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

(a) "Game promotion" means, but is not limited to, a contest, game of chance, or gift enterprise, conducted within or throughout the state and other states in connection with the sale of consumer products or services, and in which the elements of chance and prize are present. However, "game promotion" shall not be construed to apply to bingo games conducted pursuant to s. 849.0931.

(b) "Operator" means any person, firm, corporation, or association or agent or employee thereof who promotes, operates, or conducts a game promotion, except any charitable nonprofit organization.

(2) It is unlawful for any operator:

(a) To design, engage in, promote, or conduct such a game promotion, in connection with the promotion or sale of consumer products or services, wherein the winner may be predetermined or the game may be manipulated or rigged so as to:

1. Allocate a winning game or any portion thereof to certain lessees, agents, or franchises; or
2. Allocate a winning game or part thereof to a particular period of the game promotion or to a particular geographic area;

(b) Arbitrarily to remove, disqualify, disallow, or reject any entry;

(c) To fail to award prizes offered;

(d) To print, publish, or circulate literature or advertising material used in connection with such game promotions which is false, deceptive, or misleading; or

(e) To require an entry fee, payment, or proof of purchase as a condition of entering a game promotion.

(3) The operator of a game promotion in which the total announced value of the prizes offered is greater than

\$5,000 shall file with the Department of State a copy of the rules and regulations of the game promotion and a list of all prizes and prize categories offered at least 7 days before the commencement of the game promotion. Such rules and regulations may not thereafter be changed, modified, or altered. The operator of a game promotion shall conspicuously post the rules and regulations of such game promotion in each and every retail outlet or place where such game promotion may be played or participated in by the public and shall also publish the rules and regulations in all advertising copy used in connection therewith. Radio and television announcements may indicate that the rules and regulations are available at retail outlets or from the operator of the promotion. A nonrefundable filing fee of \$100 shall accompany each filing and shall be deposited into the Division of Licensing Trust Fund to be used to pay the costs incurred in administering and enforcing the provisions of this section.

(4)(a) Every operator of such a game promotion in which the total announced value of the prizes offered is greater than \$5,000 shall establish a trust account, in a national or state-chartered financial institution, with a balance sufficient to pay or purchase the total value of all prizes offered. On a form supplied by the Department of State, an official of the financial institution holding the trust account shall set forth the dollar amount of the trust account, the identity of the entity or individual establishing the trust account, and the name of the game promotion for which the trust account has been established. Such form shall be filed with the Department of State at least 7 days in advance of the commencement of the game promotion. In lieu of establishing such trust account, the operator may obtain a surety bond in an amount equivalent to the total value of all prizes offered; and such bond shall be filed with the Department of State at least 7 days in advance of the commencement of the game promotion.

1. The moneys held in the trust account may be withdrawn in order to pay the prizes offered only upon certification to the Department of State of the name of the winner or winners and the amount of the prize or prizes and the value thereof.

2. If the operator of a game promotion has obtained a surety bond in lieu of establishing a trust account, the amount of the surety bond shall equal at all times the total amount of the prizes offered.

(b) The Department of State may waive the provisions of this subsection for any operator who has conducted game promotions in the state for not less than 5 consecutive years and who has not had any civil, criminal, or administrative action instituted against him or her by the state or an agency of the state for violation of this section within that 5-year period. Such waiver may be revoked upon the commission of a violation of this section by such operator, as determined by the Department of State.

(5) Every operator of a game promotion in which the total announced value of the prizes offered is greater than

\$5,000 shall provide the Department of State with a certified list of the names and addresses of all persons, whether from this state or from another state, who have won prizes which have a value of more than \$25, the value of such prizes, and the dates when the prizes were won within 60 days after such winners have been finally determined. The operator shall provide a copy of the list of winners, without charge, to any person who requests it. In lieu of the foregoing, the operator of a game promotion may, at his or her option, publish the same information about the winners in a Florida newspaper of general circulation within 60 days after such winners have been determined and shall provide to the Department of State a certified copy of the publication containing the information about the winners. The operator of a game promotion is not required to notify a winner by mail or by telephone when the winner is already in possession of a game card from which the winner can determine that he or she has won a designated prize. All winning entries shall be held by the operator for a period of 90 days after the close or completion of the game.

(6) The Department of State shall keep the certified list of winners for a period of at least 6 months after receipt of the certified list. The department thereafter may dispose of all records and lists.

(7) No operator shall force, directly or indirectly, a lessee, agent, or franchise dealer to purchase or participate in any game promotion. For the purpose of this section, coercion or force shall be presumed in these circumstances in which a course of business extending over a period of 1 year or longer is materially changed coincident with a failure or refusal of a lessee, agent, or franchise dealer to participate in such game promotions. Such force or coercion shall further be presumed when an operator advertises generally that game promotions are available at its lessee dealers or agent dealers.

(8)(a) The Department of State shall have the power to promulgate such rules and regulations respecting the operation of game promotions as it may deem advisable.

(b) Whenever the Department of State or the Department of Legal Affairs has reason to believe that a game promotion is being operated in violation of this section, it may bring an action in the circuit court of any judicial circuit in which the game promotion is being operated in the name and on behalf of the people of the state against any operator thereof to enjoin the continued operation of such game promotion anywhere within the state.

(9)(a) Any person, firm, or corporation, or association or agent or employee thereof, who engages in any acts or practices stated in this section to be unlawful, or who violates any of the rules and regulations made pursuant to this section, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person, firm, corporation, association, agent, or employee who violates any provision of this section or any of the rules and regulations made pursuant to this section shall be liable for a civil penalty of not more than \$1,000 for each such violation, which shall accrue to the state and may be recovered in a civil action brought by the Department of State or the Department of Legal Affairs.

(10) This section does not apply to actions or transactions regulated by the Department of Business and Professional Regulation or to the activities of nonprofit organizations or to any other organization engaged in any enterprise other than the sale of consumer products or services. Subsections (3), (4), (5), (6), and (7) and paragraph

(8)(a) and any of the rules made pursuant thereto do not apply to television or radio broadcasting companies licensed by the Federal Communications Commission.

History.--ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, ch. 71-304; s. 1, ch. 73-292; s. 1, ch. 81-38; s. 1, ch. 83-118; s. 1, ch. 85-197; s. 1, ch. 90-36; s. 5, ch.

91-206; ss. 5, 6, ch. 92-280; s. 1, ch. 93-160; s. 251, ch. 94-218; s. 1364, ch. 97-102; s. 2, ch. 97-108.

849.10 Printing lottery tickets, etc., prohibited.--

(1) Except as otherwise provided by law, it is unlawful for any person, in any house, office, shop or building in this state to write, typewrite, print, or publish any lottery ticket or advertisement, circular, bill, poster, pamphlet, list or schedule, announcement or notice, of lottery prizes or drawings or any other matter or thing in any way connected with any lottery drawing, scheme or device, or to set up any type or plate for any such purpose, to be used or distributed in this state, or to be sent out of this state.

(2) Except as otherwise provided by law, it is unlawful for the owner or lessee of any such house, shop or building knowingly to permit the printing, typewriting, writing or publishing therein of any lottery ticket or advertisement, circular, bill, poster, pamphlet, list, schedule, announcement or notice of lottery prizes or drawings, or any other matter or thing in any way connected with any lottery drawing, scheme or device, or knowingly to permit therein the setting up of any type or plate for any such purpose to be used or distributed in this state, or to be sent out of the state.

(3) Nothing in this chapter shall make unlawful the printing or production of any advertisement or any lottery ticket for a lottery conducted in any other state or nation where such lottery is not prohibited by the laws of such state or nation, or the sale of such materials by the manufacturer thereof to any person or entity conducting or participating in the conduct of such a lottery in any other state or nation. This section does not authorize any advertisement within

Florida relating to lotteries of any other state or nation, or the sale or resale within Florida of such lottery tickets, chances, or shares to individuals, or any other acts otherwise in violation of any laws of the state.

(4) Any violation of this section shall be a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 2, ch. 4373, 1895; GS 3583; RGS 5510; CGL 7668; s. 1066, ch. 71-136; s. 1, ch. 96-320.

849.11 Plays at games of chance by lot.--

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, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 3, ch. 4373, 1895; GS 3584; RGS 5511; CGL 7669; s. 1067, ch. 71-136.

849.12 Money and prizes to be forfeited.--

All sums of money and every other valuable thing drawn and won as a prize, or as a share of a prize, or as a share, percentage or profit of the principal promoter or operator, in any lottery, and all money, currency or property of any kind to be disposed of, or offered to be disposed of, by chance or device in any scheme or under any pretext by any person, and all sums of money or other thing of value received by any person by reason of her or his being the owner or holder of any ticket or share of a ticket in a lottery, or pretended lottery, or of a share or right in any such schemes of chance or device and all sums of money and other thing of value used in the setting up, conducting or operation of a lottery, and all money or other thing of value at stake, or used or displayed in or in connection with any illegal gambling or any illegal gambling device contrary to the laws of this state, shall be forfeited, and may be recovered by civil proceedings, filed, or by action for money had and received, to be brought by the Department of Legal Affairs or any state attorney, or other prosecuting officer, in the circuit courts in the name and on behalf of the state; the same to be applied when collected as all other penal forfeitures are disposed of.

History.--s. 4, ch. 4373, 1895; GS 3585; RGS 5512; CGL 7670; s. 1, ch. 28088, 1953; ss. 11, 35, ch. 69-106; s. 1365, ch. 97-102.

849.13 Punishment on second conviction.--

Whoever, after being convicted of an offense forbidden by law in connection with lotteries, 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.

History.--s. 4, sub-ch. 10, ch. 1637, 1868; RS 2655; GS 3586; RGS 5513; CGL 7671; s. 1068, ch. 71-136.

849.14 Unlawful to bet on result of trial or contest of skill, etc.--

Whoever 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, 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, 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 whoever aids, or assists, or abets in any manner in any of such acts all of which are hereby forbidden, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 5959, 1909; s. 1, ch. 6188, 1911; RGS 5514; CGL 7672; s. 1069, ch. 71-136; s. 1366, ch. 97-102.

849.141 Bowling tournaments exempted from chapter.--

(1) Nothing contained in this chapter shall be applicable to participation in or the conduct of a bowling tournament conducted at a bowling center which requires the payment of entry fees, from which fees the winner receives a purse or prize.

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

(a) "Bowling tournament" means a contest in which participants engage in the sport of bowling, wherein a heavy ball is bowled along a bowling lane in an attempt to knock over bowling pins, 10 in number, set upright at the far end of the lane, according to specified regulations and rules of the American Bowling Congress, the Womens International Bowling Congress, or the Bowling Proprietors Association of America.

(b) "Bowling center" means a place of business having at least 12 bowling lanes on the premises which are operated for the entertainment of the general public for the purpose of engaging in the sport of bowling.

History.--s. 1, ch. 85-24.

849.15 Manufacture, sale, possession, etc., of coin-operated devices prohibited.--

It is unlawful:

(1) 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

(2) 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.

History.--s. 1, ch. 18143, 1937; CGL 1940 Supp. 4151(405-a); s. 1367, ch. 97-102.

849.16 Machines or devices which come within provisions of law defined.--

(1) Any machine or device is a slot machine or device within the provisions of this chapter if it is one that is adapted for use in such a way that, as a result of the insertion of any piece of money, coin, or other object, such machine or device is caused to operate or may be operated and if the user, by reason of any element of chance or of any other outcome of such operation unpredictable by him or her, may:

(a) Receive or become entitled to receive any piece of money, credit, allowance, or thing of value, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value or which may be given in trade; or

(b) Secure additional chances or rights to use such machine, apparatus, or device, even though it may, in addition to any element of chance or unpredictable outcome of such operation, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.

(2) Nothing contained in this chapter shall be construed, interpreted, or applied to the possession of a reverse vending machine. As used in this section, a reverse vending machine is a machine into which empty beverage containers are deposited for recycling and which provides a payment of money, merchandise, vouchers, or other incentives. At a frequency less than upon the deposit of each beverage container, a reverse vending machine may pay out a random incentive bonus greater than that guaranteed payment in the form of money, merchandise, vouchers, or

other incentives. The deposit of any empty beverage container into a reverse vending machine does not constitute consideration nor shall a reverse vending machine be deemed to be a slot machine within this section.

History.--s. 2, ch. 18143, 1937; CGL 1940 Supp. 4151(405-b); s. 1, ch. 67-203; s. 1, ch. 77-275; s. 2, ch. 84-247; s. 3, ch. 89-176; s. 1368, ch. 97-102.

849.161 Amusement games or machines; when chapter inapplicable.--

1(1)(a)1. Nothing contained in this chapter shall be taken or construed as applicable to an arcade amusement center having amusement games or machines which operate by means of the insertion of a coin and which by application of skill may entitle the person playing or operating the game or machine to receive points or coupons which may be exchanged for merchandise only, excluding cash and alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played.

2. Nothing contained in this chapter shall be taken or construed as applicable to any retail dealer who operates as a truck stop, as defined in chapter 336 and which operates a minimum of 6 functional diesel fuel pumps, having amusement games or machines which operate by means of the insertion of a coin or other currency and which by application of skill may entitle the person playing or operating the game or machine to receive points or coupons which may be exchanged for merchandise limited to noncash prizes, toys, novelties, and Florida Lottery products, excluding alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played. This subparagraph applies only to games and machines which are operated for the entertainment of the general public and tourists as bona fide amusement games or machines. This subsection shall not apply, however, to any game or device defined as a gambling device in 224 U.S.C. s. 1171, which requires identification of each device by permanently affixing seriatim numbering and name, trade name, and date of manufacture under s. 1173, and registration with the United States Attorney General, unless excluded from applicability of the chapter under s. 1178. This subsection shall not be construed to authorize video poker games or any other game or machine that may be construed as a gambling device under Florida law.

(b) Nothing in this subsection shall be taken or construed as applicable to a coin-operated game or device designed and manufactured only for bona fide amusement purposes which game or device may by application of skill

entitle the player to replay the game or device at no additional cost, if the game or device: can accumulate and react to no more than 15 free replays; can be discharged of accumulated free replays only by reactivating the game or device for one additional play for such accumulated free replay; can make no permanent record, directly or indirectly, of free replays; and is not classified by the United States as a gambling device in 224 U.S.C. s. 1171, which requires identification of each device by permanently affixing serial number and name, trade name, and date of manufacture under s. 1173, and registration with the United States Attorney General, unless excluded from applicability of the chapter under s. 1178. This subsection shall not be construed to authorize video poker games, or any other game or machine that may be construed as a gambling device under Florida law.

(2) The term "arcade amusement center" as used in this section means a place of business having at least 50 coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as a bona fide amusement facility.

History.--s. 3, ch. 84-247; s. 159, ch. 96-320; ss. 69, 79, ch. 96-323.

1Note.--As amended by s. 159, ch. 96-320, and s. 79, ch. 96-323. This version is published as the last expression of legislative will (see Journal of the Senate 1996, pp. 1568 and 1706). Subsection (1) was also amended by s. 69, ch. 96-323, and that version reads:

(1)(a)1. Nothing contained in this chapter shall be taken or construed as applicable to an arcade amusement center having amusement games or machines which operate by means of the insertion of a coin and which by application of skill may entitle the person playing or operating the game or machine to receive points or coupons which may be exchanged for merchandise only, excluding cash and alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played.

2. Nothing contained in this chapter shall be taken or construed as applicable to any retail dealer who operates as a truck stop, as defined in chapter 336, having amusement games or machines which operate by means of the insertion of a coin or other currency and which by application of skill may entitle the person playing or operating the game or machine to receive points or coupons which may be exchanged for merchandise limited to noncash prizes, toys, novelties, and Florida Lottery products, excluding alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played. This subparagraph applies only to games and machines which are operated for the entertainment of the general public and tourists as bona fide amusement games or machines. This subsection shall not apply, however, to any game or device classified by the United States as requiring a federal gaming stamp under applicable provisions of the Internal Revenue Code.

(b) Nothing in this subsection shall be taken or construed as applicable to a coin-operated game or device designed and manufactured only for bona fide amusement purposes which game or device may by application of skill entitle the player to replay the game or device at no additional cost, if the game or device: can accumulate and react to no more than 15 free replays; can be discharged of accumulated free replays only by reactivating the game or device for one additional play for such accumulated free replay; can make no permanent record, directly or indirectly, of free replays; and is not classified by the United States as requiring a federal gambling tax stamp under applicable provisions of the Internal Revenue Code.

²Note.--Title 24 of the United States Code relates to hospitals and asylums; chapter 24 of Title 15 of the United States Code relates to transportation of gambling devices.

849.17 Confiscation of machines by arresting officer.--

Upon the arrest of any person charged with the violation of any of the provisions of ss. 849.15-849.23 the arresting officer shall take into his or her custody any such machine, apparatus or device, and its contents, and the arresting agency, at the place of seizure, shall make a complete and correct list and inventory of all such things so taken into his or her custody, and deliver to the person from whom such article or articles may have been seized, a true copy of the list of all such articles. The arresting agency shall retain all evidence seized and shall have the same forthcoming at any investigation, prosecution or other proceedings, incident to charges of violation of any of the provisions of ss. 849.15-849.23.

History.--s. 4, ch. 18143, 1937; CGL 1940 Supp. 4151(405-c); s. 1, ch. 89-176; s. 1369, ch. 97-102.

849.18 Disposition of machines upon conviction.--

Upon conviction of the person arrested for the violation of any of the provisions of ss. 849.15-849.23, the judge of the court trying the case, after such notice to the person convicted, and any other person whom the judge may be of the opinion is entitled to such notice, and as the judge may deem reasonable, shall issue to the sheriff of the county a written order adjudging and declaring any such machine, apparatus or device forfeited, and directing such sheriff to destroy the same, with the exception of the money. The order of the court shall state the time and place and the manner in which such property shall be destroyed, and the sheriff shall destroy the same in the presence of the clerk of the circuit court of such county.

History.--s. 5, ch. 18143, 1937; CGL 1940 Supp. 4151(405-d).

849.19 Property rights in confiscated machine.--

The right of property in and to any machine, apparatus or device as defined in s. 849.16 and to all money and other things of value therein, is declared not to exist in any person, and the same shall be forfeited and such money or other things of value shall be forfeited to the county in which the seizure was made and shall be delivered forthwith to the clerk of the circuit court and shall by her or him be placed in the fine and forfeiture fund of said county.

History.--s. 6, ch. 18143, 1937; CGL 1940 Supp. 4151(405-e); s. 1370, ch. 97-102.

849.20 Machines and devices declared nuisance; place of operation subject to lien for fine.--

Any room, house, building, boat, vehicle, structure or place wherein any machine or device, or any part thereof, the possession, operation or use of which is prohibited by ss. 849.15-849.23, shall be maintained or operated, and each of such machines or devices, is declared to be a common nuisance. If a person has knowledge, or reason to believe, that his or her room, house, building, boat, vehicle, structure or place is occupied or used in violation of the provisions of ss. 849.15-849.23 and by acquiescence or consent suffers the same to be used, such room, house, building, boat, vehicle, structure or place shall be subject to a lien for and may be sold to pay all fines or costs assessed against the person guilty of such nuisance, for such violation, and the several state attorneys shall enforce such lien in the courts of this state having jurisdiction.

History.--s. 7, ch. 18143, 1937; CGL 1940 Supp. 4151(405-f); s. 7, ch. 22858, 1945; s. 1371, ch. 97-102.

849.21 Injunction to restrain violation.--

An action to enjoin any nuisance as herein defined may be brought by any person in the courts of equity in this state. If it is made to appear by affidavit or otherwise, to the satisfaction of the court, or judge in vacation, that such nuisance exists, a temporary writ of injunction shall forthwith issue restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the action. Upon application of the complainant in such a proceeding, the court or judge may also enter an order restraining the defendant and all other persons from removing, or in any way interfering with the machines or devices or other things used in connection with the violation of ss. 849.15-849.23 constituting such a nuisance. No bond shall be required in instituting such proceedings.

History.--s. 8, ch. 18143, 1937; CGL 1940 Supp. 4151 (405-g).

849.22 Fees of clerk of circuit court and sheriff.--

The clerks of the courts and the sheriffs performing duties under the provisions of ss. 849.15-849.23 shall receive the same fees as prescribed by general law for the performance of similar duties, and such fees shall be paid out of the fine and forfeiture fund of the county as costs are paid upon conviction of an insolvent person.

History.--s. 9, ch. 18143, 1937; CGL 1940 Supp. 4151(405-h).

849.23 Penalty for violations of ss. 849.15-849.22.--

Whoever shall violate any of the provisions of ss.

849.15-849.22 shall, upon conviction thereof, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any person convicted of violating any provision of ss. 849.15-849.22, a second time shall, upon conviction thereof, be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person violating any provision of ss. 849.15-849.22 after having been twice convicted already shall be deemed a "common offender," and shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 3, ch. 18143, 1937; CGL 1940 Supp. 8135(21); s. 1070, ch. 71-136.

849.231 Gambling devices; manufacture, sale, purchase or possession unlawful.--

(1) Except in instances when the following described implements or apparatus are being held or transported by authorized persons for the purpose of destruction, as hereinafter provided, and except in instances when the following described instruments or apparatus are being held, sold, transported, or manufactured by persons who have registered with the United States Government pursuant to the provisions of Title 15 of the United States Code, ss. 1171 et seq., as amended, so long as the described implements or apparatus are not displayed to the general public, sold for use in Florida, or held or manufactured in contravention of the requirements of 15 U.S.C. ss. 1171 et seq., it shall be unlawful for any person to manufacture, sell, transport, offer for sale, purchase, own, or have in his or her possession any roulette wheel or table, faro layout, crap table or layout, chemin de fer table or layout, chuck-a-luck wheel, bird cage such as used for gambling, bolita balls, chips with house markings, or any other device, implement, apparatus, or paraphernalia ordinarily or commonly used or designed to be used in the operation of gambling houses or establishments, excepting ordinary dice and playing cards.

(2) In addition to any other penalties provided for the violation of this section, any occupational license held by a

person found guilty of violating this section shall be suspended for a period not to exceed 5 years.

(3) This section and s. 849.05 do not apply to a vessel of foreign registry or a vessel operated under the authority of a country except the United States, while docked in this state or transiting in the territorial waters of this state.

History.--s. 1, ch. 29665, 1955; s. 9, ch. 74-385; s. 1, ch. 77-174; s. 2, ch. 87-255; s. 1372, ch. 97-102.

849.232 Property right in gambling devices; confiscation.--

There shall be no right of property in any of the implements or devices enumerated or included in s. 849.231 and upon the seizure of any such implement, device, apparatus or paraphernalia by an authorized enforcement officer the same shall be delivered to and held by the clerk of the court having jurisdiction of such offenses and shall not be released by such clerk until he or she shall be advised by the prosecuting officer of such court that the said implement is no longer required as evidence and thereupon the said clerk shall deliver the said implement to the sheriff of the county who shall immediately cause the destruction of such implement in the presence of the said clerk or his or her authorized deputy.

History.--s. 2, ch. 29665, 1955; s. 1373, ch. 97-102.

849.233 Penalty for violation of s. 849.231.--

Any person, including any enforcement officer, clerk or prosecuting official who shall violate the provisions of s. 849.231 shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 3, ch. 29665, 1955; s. 1071, ch. 71-136.

849.235 Possession of certain gambling devices; defense.--

(1) It is a defense to any action or prosecution under ss. 849.15-849.233 for the possession of any gambling device specified therein that the device is an antique slot machine and that it is not being used for gambling. For the purpose of this section, an antique slot machine is one which was manufactured at least 20 years prior to such action or prosecution.

(2) Notwithstanding any provision of this chapter to the contrary, upon a successful defense to a prosecution for the possession of a gambling device pursuant to the provisions of this section, the antique slot machine shall be returned to the person from whom it was seized.

History.--s. 1, ch. 78-22; s. 1, ch. 88-71.

849.25 "Bookmaking" defined; penalties; exceptions.--

(1)(a) The term "bookmaking" means 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.

(b) The following factors shall be considered in making a determination that a person has engaged in the offense of bookmaking:

1. Taking advantage of betting odds created to produce a profit for the bookmaker or charging a percentage on accepted wagers.
2. Placing all or part of accepted wagers with other bookmakers to reduce the chance of financial loss.
3. Taking or receiving more than five wagers in any single day.
4. Taking or receiving wagers totaling more than \$500 in any single day, or more than \$1,500 in any single week.
5. Engaging in a common scheme with two or more persons to take or receive wagers.
6. Taking or receiving wagers on both sides on a contest at the identical point spread.
7. Any other factor relevant to establishing that the operating procedures of such person are commercial in nature.

(c) The existence of any two factors listed in paragraph (b) may constitute prima facie evidence of a commercial bookmaking operation.

(2) Any person who engages in bookmaking shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.

(3) Any person who has been convicted of bookmaking and thereafter violates the provisions of this section shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.

(4) Notwithstanding the provisions of s. 777.04, any person who is guilty of conspiracy to commit bookmaking shall be subject to the penalties imposed by subsections (2) and (3).

(5) This section shall not apply to pari-mutuel wagering in Florida as authorized under chapter 550.

(6) This section shall not apply to any prosecutions filed and pending at the time of the passage hereof, but all such cases shall be disposed of under existing laws at the time of the institution of such prosecutions.

History.--ss. 1-3, ch. 26847, 1951; s. 1073, ch. 71-136; s. 47, ch. 75-298; s. 1, ch. 78-36; s. 48, ch. 87-243; s. 64, ch. 92-348; s. 1374, ch. 97-102.

849.26 Gambling contracts declared void; exception.--

All promises, agreements, notes, bills, bonds or other contracts, mortgages or other securities, when the whole or part of the consideration is for money or other valuable thing won or lost, laid, staked, betted or wagered in any gambling transaction whatsoever, regardless of its name or nature, whether heretofore prohibited or not, or for the repayment of money lent or advanced at the time of a gambling transaction for the purpose of being laid, betted, staked or wagered, are void and of no effect; provided, that this act shall not apply to wagering on pari-mutuels or any gambling transaction expressly authorized by law.

History.--s. 1, ch. 26543, 1951.

849.29 Persons against whom suits may be brought to recover on gambling contracts.--

The following persons shall be jointly and severally liable for the items which are authorized by this act to be sued for and recovered, and any suit brought under the authorization of this act may be brought against all or any of such persons, to wit: The winner of the money or property lost in the gambling transaction; every person who, having direct or indirect charge, control or management, either exclusively or with others, of the place where the gambling transaction occurs, procures, suffers or permits such place to be used for gambling purposes; whoever promotes, sets up or conducts the gambling transaction in which the loss occurs or has an interest in it as backer, vendor, owner or otherwise; and, as to anything of value other than money, the transferees and assignees, with notice, of the persons hereinabove specified in this section; and the personal representatives of the persons specified in this section.

History.--s. 4, ch. 26543, 1951.

849.30 Plaintiff entitled to writs of attachment, garnishment and replevin.--

In any suit under ss.

849.26-849.34, the plaintiff shall be entitled to writs of attachment and garnishment for the sums of money, exclusive

of attorney's fees, sued for the use and benefit of persons other than the state, in the same manner and to the same extent as in an action on contract; and, in any suit under this chapter for the recovery of a thing of value other than money, the plaintiff shall be entitled to a writ of replevin for the recovery of such thing of value, in the manner and to the extent provided by the replevin statutes of the state.

History.--s. 5, ch. 26543, 1951; s. 24, ch. 57-1.

849.31 Loser's testimony not to be used against her or him.--

In the event that suit is brought under the authorization of ss. 849.26-849.34 by someone other than the loser of the money or thing of value involved in the suit, such loser shall not be excused from being required to attend and testify or produce any book, paper or other document or evidence in such suit, upon the ground or for the reason that the testimony or evidence required of the loser may tend to convict her or him of a crime or to subject her or him to a penalty or forfeiture, but the loser shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which she or he may so be required to testify or produce evidence, and no testimony so given or produced shall be received against the loser upon any criminal investigation or prosecution. If the loser of money or thing of value involved in a suit brought under authorization of ss. 849.26-849.34, whether by her or him or by someone else, voluntarily attends or produces evidence in such suit, the loser shall not be prosecuted or subjected to any penalty for or on account of any transaction, matter or thing concerning which she or he may so testify or produce evidence, and no testimony so given or produced shall be received against her or him upon any criminal investigation or prosecution. Also, neither the fact of the bringing of suit under this act by a loser nor any statement or admission in her or his pleadings which is material and relevant to the subject matter of the suit shall be received against the loser upon any criminal investigation or proceeding.

History.--s. 6, ch. 26543, 1951; s. 1375, ch. 97-102.

849.32 Notice to state attorney; prosecution of suit.--

The summons in any such suit, and copies of all pleadings and notices of all hearings in the suit, and notice of the trial and of application for the entry of final judgment, shall be served on the state attorney, whose duty it shall be to protect the interests of the state and, if the plaintiff fails to diligently prosecute the suit, to bring such failure to the attention of the court. If the plaintiff fails to effectively prosecute any such suit without collusion or deceit and without unnecessary delay, the court shall direct the state

attorney to proceed with the action. No such suit shall be dismissed except upon a sworn statement filed by the plaintiff or the state attorney which satisfies the court that the suit should be dismissed.

History.--s. 7, ch. 26543, 1951.

849.33 Judgment and collection of money; execution.--

Any judgment recovered in such a suit shall adjudge separately the amounts recovered for the use of the state, and the plaintiff shall not have execution therefor, and such amounts shall not be paid to the plaintiff, but shall be payable to the state attorney, who shall promptly transmit the sums collected by him or her to the State Treasurer. The state attorney shall diligently seek the collection of such amounts and may cause a separate execution to issue for the collection thereof.

History.--s. 8, ch. 26543, 1951; s. 1376, ch. 97-102.

849.34 Loser's judgment; recovery of property; writ of assistance.--

If the plaintiff in any such suit seek to recover property lost, and if the plaintiff shall prevail as to any such property, he or she shall take judgment for the property itself and for the value thereof, the judgment as to such property to be satisfied by the recovery of the property or of the value thereof. The plaintiff may, at his or her option, sue out a separate writ of possession for the property and a separate execution for any other moneys and costs adjudged in his or her favor, or the plaintiff may sue out an execution for the value of the property and any other moneys and costs adjudged in his or her favor. If the plaintiff elect to sue out a writ of possession for the property, and if the officer shall return that he or she is unable to find the property, or any of it, the plaintiff may thereupon sue out execution for the value of the property not found. In any proceeding to ascertain the value of the property, the value of each article shall be found so that judgment for such value may be entered.

History.--s. 9, ch. 26543, 1951; s. 1377, ch. 97-102.

849.35 Definitions.--

In construing ss. 849.36-849.46 and each and every word, phrase, or part thereof, where the context permits:

- (1) The singular includes the plural and vice versa.
- (2) Gender-specific language includes the other gender and neuter.
- (3) The term "vessel" includes every description of watercraft, vessel or contrivance used, or capable of being used, as a means of transportation in or on water, or in or on the water and in the air.

(4) The term "vehicle" includes every description of vehicle, carriage, animal or contrivance used, or capable of being used, as a means of transportation on land, in the air, or on land and in the air.

(5) The term "gambling paraphernalia" includes every description of apparatus, implement, machine, device or contrivance used in, or in connection with, any violation of the lottery, gaming and gambling statutes, and laws of this state, except facilities and equipment furnished by a public utility in the regular course of business, and which remain the property of such utility while so furnished.

(6) The term "lottery ticket" shall include every ticket, token, emblem, card, paper or other evidence of a chance, interest, prize or share in, or in connection with any lottery, game of chance or hazard or other things in violation of the lottery and gambling statutes and laws of this state (including bolita, cuba, bond, New York bond, butter and eggs, night house and other like and similar operations, but not excluding others). The said term shall also include so-called rundown sheets, tally sheets, and all other papers, records, instruments, and things designed for use, either directly or indirectly, in, or in connection with, the violation of the statutes and laws of this state prohibiting lotteries and gambling in this state.

History.--s. 1, ch. 29712, 1955; s. 1378, ch. 97-102.

849.36 Seizure and forfeiture of property used in the violation of lottery and gambling statutes.--

(1) Every vessel or vehicle used for, or in connection with, the removal, transportation, storage, deposit, or concealment of any lottery tickets, or used in connection with any lottery or game in violation of the statutes and laws of this state, shall be subject to seizure and forfeiture, as provided by the Florida Contraband Forfeiture Act.

(2) All gambling paraphernalia and lottery tickets as herein defined used in connection with a lottery, gambling, unlawful game of chance or hazard, in violation of the statutes and laws of this state, found by an officer in searching a vessel or vehicle used in the violation of the gambling laws shall be safely kept so long as it is necessary for the purpose of being used as evidence in any case, and as soon as may be afterwards, shall be destroyed by order of the court before whom the case is brought or certified to any other court having jurisdiction, either state or federal.

(3) The presence of any lottery ticket in any vessel or vehicle owned or being operated by any person charged with a violation of the gambling laws of the state, shall be prima facie evidence that such vessel or vehicle was or is

being used in connection with a violation of the lottery and gambling statutes and laws of this state and as a means of removing, transporting, depositing, or concealing lottery tickets and shall be sufficient evidence for the seizure of such vessel or vehicle.

(4) The presence of lottery tickets in any room or place, including vessels and vehicles, shall be prima facie evidence that such room, place, vessel, or vehicle, and all apparatus, implements, machines, contrivances, or devices therein, (herein referred to as "gambling paraphernalia") capable of being used in connection with a violation of the lottery and gambling statutes and laws of this state and shall be sufficient evidence for the seizure of such gambling paraphernalia.

(5) It shall be the duty of every peace officer in this state finding any vessel, vehicle, or paraphernalia being used in violation of the statutes and laws of this state as aforesaid to seize and take possession of such property for disposition as hereinafter provided. It shall also be the duty of every peace officer finding any such property being so used, in connection with any lawful search made by her or him, to seize and take possession of the same for disposition as hereinafter provided.

History.--s. 2, ch. 29712, 1955; s. 1, ch. 57-236; s. 8, ch. 74-385; s. 8, ch. 80-68; s. 1379, ch. 97-102.

849.37 Disposition and appraisal of property seized under this chapter.--

(1) Every peace officer, other than the sheriff, seizing property pursuant to the provisions of ss. 849.36-849.46 shall forthwith make return of the seizure thereof and deliver the said property to the sheriff of the county wherein the same was seized. The said return to the sheriff shall describe the property seized and give in detail the facts and circumstances under which the same was seized and state in full the reason why the seizing officer knew, or was led to believe, that the said property was being used for or in connection with a violation of the statutes and laws of this state prohibiting lotteries and gambling in this state. The said return shall contain the names of all persons, firms and corporations known to the seizing officer to be interested in the seized property.

(2) When property is seized by the sheriff pursuant to this chapter, or when property seized by another is delivered to the sheriff as aforesaid, the sheriff shall forthwith fix the approximate value thereof and make return thereof to the clerk of the circuit court as hereinafter provided.

(3) The return of the sheriff aforesaid shall contain a schedule of the property seized describing the same in reasonable detail and give in detail the facts and circumstances under which it was seized and state in full the reason

why the seizing officer knew or was led to believe that the property was being used for or in connection with a violation of the statutes and laws of this state prohibiting lotteries or gambling in this state; and a statement of the names of all persons, firms and corporations known to the sheriff to be interested in the seized property; and in cases where the said property was seized by another the sheriff shall attach to his or her said return, as an exhibit thereto, the return of the seizing officer to him or her.

(4) The sheriff shall hold the said property seized pending its disposal by the court as hereinafter provided.

History.--s. 3, ch. 29712, 1955; s. 1380, ch. 97-102.

849.38 Proceedings for forfeiture; notice of seizure and order to show cause.--

(1) The return of the sheriff aforesaid to the clerk of the circuit court shall be taken and considered as the state's petition or libel in rem for the forfeiture of the property therein described, of which the circuit court of the county shall have jurisdiction without regard to value. The said return shall be sufficient as said petition or libel notwithstanding the fact that it may contain no formal prayer or demand for forfeiture, it being the intention of the Legislature that forfeiture may be decreed without a formal prayer or demand therefor. The said return shall be subject to amendment at any time before final hearing, provided that copies thereof shall be served upon all persons, firms or corporations who may have filed a claim prior to such amendment.

(2) Upon the filing of said return the clerk of the circuit court shall issue a citation, directed to all persons, firms and corporations owning, having or claiming an interest in or a lien upon the seized property, giving notice of the seizure and directing that all persons, firms or corporations owning, having or claiming an interest therein or lien thereon, to file their claim to, on, or in said property within the time fixed in said citation, as to persons, firms and corporations not personally served, and within 20 days from personal service of said citation, when personal service is had. Personal service shall be made on all parties, in Florida, having liens noted upon a certificate of title as shown by the records in the office of the Department of Highway Safety and Motor Vehicles.

(3) The said citation may be in, or substantially in, the following form:

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT, IN AND FOR _____ COUNTY, FLORIDA.

IN RE FORFEITURE OF THE FOLLOWING DESCRIBED PROPERTY:

(Here describe property)

THE STATE OF FLORIDA TO:

ALL PERSONS, FIRMS AND CORPORATIONS OWNING, HAVING OR CLAIMING AN INTEREST IN OR LIEN ON THE ABOVE DESCRIBED PROPERTY.

YOU AND EACH OF YOU are hereby notified that the above described property has been seized, under and by virtue of chapter _____, Laws of Florida, and is now in the possession of the sheriff of this county, and you, and each of you, are hereby further notified that a petition, under said chapter, has been filed in the Circuit Court of the _____ Judicial Circuit, in and for _____ County, Florida, seeking the forfeiture of the said property, and you are hereby directed and required to file your claim, if any you have, and show cause, on or before _____, 19_____, if not personally served with process herein, and within 20 days from personal service if personally served with process herein, why the said property should not be forfeited pursuant to said chapter _____, Laws of Florida, 1955. Should you fail to file claim as herein directed judgment will be entered herein against you in due course. Persons not personally served with process may obtain a copy of the petition for forfeiture filed herein from the undersigned clerk of court.

WITNESS my hand and the seal of the above mentioned court, at _____ Florida, this _____ 19_____.
(COURT SEAL)

(Clerk of the above-mentioned Court.)

By (Deputy Clerk)

(4) Such citation shall be returnable, as to persons served constructively, as therein directed, not less than 21 nor more than 30 days, from the posting or publication thereof, and as to personally served with process within 20 days from service thereof. A copy of the petition shall be served with the process when personally served. Personal service of process may be made in the same manner as a summons in chancery.

(5) If the value of the property seized is shown by the sheriff's return to have an appraised value of \$1,000 or less, the above citation shall be served by posting at three public places in the county, one of which shall be the front door of the courthouse; if the value of the property is shown by the sheriff's return to have an approximate value of more than \$1,000, the citation shall be published at least once each week for 2 consecutive weeks in some newspaper of general publication published in the county, if there be such a newspaper published in the county and if not, then said notice of such publication shall be made by certificate of the clerk if publication is made by posting, and by affidavit as provided in chapter 50, if made by publication in a newspaper, which affidavit or certificate shall be filed and become

a part of the record in the cause. Failure of the record to show proof of such publication shall not affect any judgment made in the cause unless it shall affirmatively appear that no such publication was made.

History.--s. 4, ch. 29712, 1955; ss. 24, 35, ch. 69-106; s. 12, ch. 73-299; s. 27, ch. 90-279.

849.39 Delivery of property to claimant.--

Any person, firm, or corporation filing a claim in the cause, which claim shall state fully her or his right, title, claim, or interest, in and to the seized property, may, at any time after said claim is filed with the clerk of the court, obtain possession of the seized property by filing a petition therefor with the sheriff and posting with her or him, to be approved by her or him, a surety bond, payable to the Governor of the state in twice the amount of the value of the said property as fixed in the sheriff's return to the clerk of the circuit court, with a corporate surety duly authorized to transact business in this state as surety, conditioned upon her or his paying to the sheriff the value of the property together with costs of the proceeding, if judgment of forfeiture be entered by the court. Upon the posting of such bond with the sheriff and the release of the property to the applicant the cause shall proceed to final judgment in the same manner as it would have had no such bond been filed, except that any execution to be issued in the cause pursuant to judgment may run against and be enforced against the person posting said bond and the person's surety.

History.--s. 5, ch. 29712, 1955; s. 1381, ch. 97-102.

849.40 Proceeding when no claim filed.--

When no claim is filed in the cause within the time required the clerk shall enter a default against all persons, firms and corporations owning, claiming or having an interest in and to the property seized and the cause may then proceed in the same manner as a common-law cause after default, and final judgment shall be entered therein ex parte, except as may be herein otherwise provided.

History.--s. 6, ch. 29712, 1955.

849.41 Proceeding when claim filed.--

When one or more claims are filed in the cause the cause shall be tried upon the issues made thereby with the petition for forfeiture with any affirmative defenses being deemed denied without further pleading. Judgment by default shall be entered against all other persons, firms and corporations owning, claiming or having an interest in and to the property seized, after which the cause shall proceed as in other common-law cases; except any claimant shall prove to the satisfaction of the court that he or she did not know or

have any reason to believe, at the time his or her right, title, interest, or lien arose, that the property was being used for or in connection with the violation of any of the statutes or laws of this state prohibiting lotteries and gambling and further that at said time there was no reasonable reason to believe that the said property might be used for such purpose. Where the owner of the property has been convicted of a violation of the statutes and laws of this state prohibiting lotteries or gambling such conviction shall be prima facie evidence that each claimant had reason to believe that the property might be used for or in connection with a violation of such statutes and laws, and it shall be incumbent upon such claimant to satisfy the court that he or she was without knowledge of such conviction. Trial of all such causes shall be without a jury, except in such cases as a trial by jury may be guaranteed by the State Constitution and in such cases trial by jury shall be deemed waived unless demanded in the claim filed.

History.--s. 7, ch. 29712, 1955; s. 1382, ch. 97-102.

849.42 State attorney to represent state.--

Upon the filing of the sheriff's return with the clerk of the circuit court the said clerk shall furnish the state attorney with a copy thereof and the said state attorney shall represent the state in the forfeiture proceedings. The Department of Legal Affairs shall represent the state in all appeals from judgments of forfeiture to the appropriate district court of appeal or direct to the Supreme Court when authorized by s. 3, Art. V of the State Constitution. The state may appeal any judgment denying forfeiture in whole or in part or that may be otherwise adverse to the state.

History.--s. 8, ch. 29712, 1955; s. 34, ch. 63-559; ss. 11, 35, ch. 69-106; s. 13, ch. 73-299.

849.43 Judgment of forfeiture.--

On final hearing the return of the sheriff to the clerk of the circuit court shall be taken as prima facie evidence that the property seized was or had been used in, or in connection with, the violation of the statutes and laws of this state prohibiting lotteries and gambling in this state and shall be sufficient predicate for a judgment of forfeiture in the absence of other proofs and evidence. The burden shall be upon the claimants to show that the property was not so used or if so used that they had no knowledge of such violation and no reason to believe that the seized property was or would be used for the violation of such statutes and laws. Where such property is encumbered by a lien or retained title agreement under circumstances wherein the lienholder had no knowledge that the property was or would be used in violating such statutes and laws, and no reasonable reason to believe that it might be so used, then the court may declare a forfeiture of all other rights, titles and interests, subject, however, to the lien of such innocent lienholder, or may direct the payment of such lien from the proceeds of any sale of the said

property. The proceedings and the judgment of forfeiture shall be in rem and shall be primarily against the property itself. Upon the entry of a judgment of forfeiture the court shall determine the disposition to be made of the property, which may include the destruction thereof, the sale thereof, the allocation thereof to some governmental function or use, or otherwise as the court may determine. Sales of such property shall be at public sale to the highest bidder therefor for cash after 2 weeks' public notice as the court may direct. Where the property has been delivered to a claimant upon the posting of a bond the court shall determine the value of the property or portion thereof subject to forfeiture and shall enter judgment against the principal and surety of the bond in such amount for which execution shall issue in the usual manner. Upon the application of any claimant the court may fix the value of the interest or interests in the seized property and permit such claimant to redeem the said property upon the payment of a sum equal to said value, which sum shall be disposed of as would the proceeds of a sale of the said property under a judgment of forfeiture.

History.--s. 9, ch. 29712, 1955.

849.44 Disposition of proceeds of forfeiture.--

All sums received from a sale or other disposition of the seized property shall be paid into the county fine and forfeiture fund and shall become a part thereof; provided, however, that in instances where the seizure is by a municipal police officer within the limits of any municipality having an ordinance requiring such vehicles, vessels or conveyances to be forfeited, the city attorney shall act in behalf of the city in lieu of the state attorney and shall proceed to forfeit the property as herein provided, and all sums received therefrom shall go into the general operating fund of the city.

History.--s. 10, ch. 29712, 1955; s. 24, ch. 57-1.

849.45 Fees for services.--

Fees for services required hereunder shall be the same as provided for sheriffs and clerks for like and similar services in other cases and matters.

History.--s. 11, ch. 29712, 1955.

849.46 Exercise of police power.--

It is deemed by the Legislature that this chapter is necessary for the more efficient and proper enforcement of the statutes and laws of this state prohibiting lotteries and gambling, and a lawful exercise of the police power of the state for the protection of the public welfare, health, safety and morals of the

people of the state. All the provisions of this chapter shall be liberally construed for the accomplishment of these purposes.

History.--s. 12, ch. 29712, 1955.

CHAPTER 871. DISTURBING RELIGIOUS AND OTHER ASSEMBLIES

871.03 Peddling at camp meeting.--

Whoever during the time of holding any camp or field meeting for religious purposes, and within 1 mile of the place of holding such meeting, hawks or peddles goods, wares, merchandise, or without permission from the authorities having charge of such meeting, establishes any tent or booth for vending of provisions or refreshments, or practices or engages in gaming or horseracing, or exhibits, or offers to exhibit, shows or plays shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083; but a person having his or her usual and regular place of business within such limits is not hereby required to suspend the business.

History.--s. 20, ch. 1637, 1868; RS 2628; GS 3548; RGS 5450; CGL 7593; s. 1131, ch. 71-136; s. 1405, ch. 97-102.

CHAPTER 895. OFFENSES CONCERNING RACKETEERING AND ILLEGAL DEBTS

895.02 Definitions.--

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

(1) "Racketeering 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 which is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.
2. Section 403.727(3)(b), relating to environmental control.
3. Section 414.39, relating to public assistance fraud.
4. Section 409.920, relating to Medicaid provider fraud.
5. Section 440.105 or s. 440.106, relating to workers' compensation.
6. Part IV of chapter 501, relating to telemarketing.
7. Chapter 517, relating to sale of securities and investor protection.

8. Section 550.235, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.
9. Chapter 550, relating to jai alai frontons.
10. Chapter 552, relating to the manufacture, distribution, and use of explosives.
11. Chapter 562, relating to beverage law enforcement.
12. 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.
13. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.
14. Chapter 687, relating to interest and usurious practices.
15. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.
16. Chapter 782, relating to homicide.
17. Chapter 784, relating to assault and battery.
18. Chapter 787, relating to kidnapping.
19. Chapter 790, relating to weapons and firearms.
20. Section 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.
21. Chapter 806, relating to arson.
22. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.
23. Chapter 812, relating to theft, robbery, and related crimes.
24. Chapter 815, relating to computer-related crimes.
25. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.
26. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.
27. Section 827.071, relating to commercial sexual exploitation of children.
28. Chapter 831, relating to forgery and counterfeiting.
29. Chapter 832, relating to issuance of worthless checks and drafts.
30. Section 836.05, relating to extortion.
31. Chapter 837, relating to perjury.
32. Chapter 838, relating to bribery and misuse of public office.

33. Chapter 843, relating to obstruction of justice.
34. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.
35. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.
36. Chapter 874, relating to criminal street gangs.
37. Chapter 893, relating to drug abuse prevention and control.
38. Chapter 896, relating to offenses related to financial transactions.
39. Sections 914.22 and 914.23, relating to tampering with a witness, victim, or informant, and retaliation against a witness, victim, or informant.
40. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.
 - (b) Any conduct defined as "racketeering activity" under 18 U.S.C. s. 1961(1).
 - (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, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.
 2. Chapter 550, relating to jai alai frontons.
 3. Chapter 687, relating to interest and usury.
 4. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.
 - (b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.
 - (3) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal street gang, as defined in s. 874.03, constitutes an enterprise.
 - (4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this act and that the last of such incidents occurred within 5 years after a prior incident of racketeering conduct.

(5) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(6) "RICO lien notice" means the notice described in s. 895.05(12) or in s. 895.07.

(7) "Investigative agency" means the Department of Legal Affairs, the Office of Statewide Prosecution, or the office of a state attorney.

(8) "Beneficial interest" means any of the following:

(a) The interest of a person as a beneficiary under a trust established pursuant to s. 689.07 or s. 689.071 in which the trustee for the trust holds legal or record title to real property;

(b) The interest of a person as a beneficiary under any other trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or

(c) The interest of a person under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person.

The term "beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in either a general partnership or a limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located.

(9) "Real property" means any real property or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

(10) "Trustee" means any of the following:

(a) Any person acting as trustee pursuant to a trust established under s. 689.07 or s. 689.071 in which the trustee holds legal or record title to real property.

(b) Any person who holds legal or record title to real property in which any other person has a beneficial interest.

(c) Any successor trustee or trustees to any or all of the foregoing persons.

However, the term "trustee" does not include any person appointed or acting as a personal representative as defined in s. 731.201(25) or appointed or acting as a trustee of any testamentary trust or as a trustee of any indenture of trust under which any bonds have been or are to be issued.

(11) "Criminal proceeding" means any criminal proceeding commenced by an investigative agency under s.

895.03 or any other provision of the Florida RICO Act.

(12) "Civil proceeding" means any civil proceeding commenced by an investigative agency under s. 895.05 or any other provision of the Florida RICO Act.

History.--s. 2, ch. 77-334; s. 3, ch. 79-218; s. 300, ch. 79-400; s. 1, ch. 81-141; s. 1, ch. 83-65; s. 25, ch. 83-264; s. 2, ch. 84-9; s. 5, ch.

86-277; s. 1, ch. 87-139; s. 5, ch. 89-143; s. 2, ch. 90-246; s. 3, ch. 90-301; s. 13, ch. 91-33; s. 72, ch. 91-282; s. 4, ch. 92-125; s. 4, ch.

92-281; s. 65, ch. 92-348; s. 2, ch. 93-227; s. 106, ch. 93-415; s. 78, ch. 94-209; s. 91, ch. 95-211; s. 9, ch. 95-340; s. 107, ch. 96-175; s. 7,

ch. 96-252; s. 5, ch. 96-260; s. 4, ch. 96-280; s. 7, ch. 96-387; s. 43, ch. 96-388; s. 2, ch. 97-78.

Note.--Former s. 943.461.

TITLE XLVII. CRIMINAL PROCEDURE AND CORRECTIONS

CHAPTER 901. ARRESTS

901.19 Right of officer to break into building.--

(1) If a peace officer fails to gain admittance after she or he has announced her or his authority and purpose in order to make an arrest either by a warrant or when authorized to make an arrest for a felony without a warrant, the officer may use all necessary and reasonable force to enter any building or property where the person to be arrested is or is reasonably believed to be.

(2) When any of the implements, devices, or apparatus commonly used for gambling purposes are found in any house, room, booth, or other place used for the purpose of gambling, a peace officer shall seize and hold them subject to the discretion of the court, to be used as evidence, and afterwards they shall be publicly destroyed in the presence of witnesses under order of the court to that effect.

History.--s. 19, ch. 19554, 1939; CGL 1940 Supp. 8663(19); s. 8, ch. 70-339; s. 1463, ch. 97-102.

CHAPTER 905. GRAND JURY

905.34 Powers and duties; law applicable.--

The jurisdiction of a statewide grand jury impaneled under this chapter shall extend throughout the state. The subject matter jurisdiction of the statewide grand jury shall be limited to the offenses of:

- (1) Bribery, burglary, carjacking, home-invasion robbery, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, and robbery;
- (2) Crimes involving narcotic or other dangerous drugs;
- (3) Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;
- (4) Any violation of the provisions of the Florida Anti-Fencing Act;
- (5) Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;
- (6) Any crime involving, or resulting in, fraud or deceit upon any person;
- or any attempt, solicitation, or conspiracy to commit any violation of the crimes specifically enumerated above, when
any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction or when
any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. The statewide grand jury may return indictments and presentments irrespective of the county or judicial circuit where the offense is committed or triable. If an indictment is returned, it shall be certified and transferred for trial to the county where the offense was committed. The powers and duties of, and law applicable to, county grand juries shall apply to a statewide grand jury except when such powers, duties, and law are inconsistent with the provisions of ss. 905.31-905.40.

History.--s. 1, ch. 73-132; s. 6, ch. 77-334; s. 14, ch. 77-342; ss. 2, 4, ch. 80-619; s. 1, ch. 84-145; s. 6, ch. 85-179; s. 2, ch. 90-12; s. 2, ch. 92-108; s. 6, ch. 93-212; s. 6, ch. 95-427; s. 8, ch. 96-252; s. 10, ch. 96-260; s. 7, ch. 97-78.

CHAPTER 910. JURISDICTION AND VENUE

910.006 State special maritime criminal jurisdiction.--

- (1) LEGISLATIVE FINDINGS AND INTENT.--
- (a) The State of Florida is a major center for international travel and trade by sea.
- (b) The state has an interest in ensuring the protection of persons traveling to or from Florida by sea.
- (c) The state has an interest in cooperating with the masters of ships and the governments of the United States and

the other states in the maintenance of law and order on board ship.

(d) The interests of the state do not in principle require a general assertion of primary jurisdiction over acts or omissions at sea that would duplicate or conflict with the execution of any law enforcement responsibility of any other jurisdiction.

(e) The State of Florida should establish special maritime criminal jurisdiction extending to acts or omissions on board ships outside of the state under the circumstances delimited in this section.

(2) DEFINITIONS.--As used in this section:

(a) "Flag state" means the state under whose laws a ship is registered.

(b) "Ship" means any watercraft or other contrivance used, capable of being used, or intended to be used as a means of transportation on water, and all phases of construction of such watercraft or contrivance.

(c) "State" means any foreign state, the United States or any state, territory, possession, or commonwealth thereof, or the District of Columbia.

(3) SPECIAL MARITIME CRIMINAL JURISDICTION.--The special maritime criminal jurisdiction of the state extends to acts or omissions on board a ship outside of the state under any of the following circumstances:

(a) There is a suspect on board the ship who is a citizen or resident of this state or a state which consents to the jurisdiction of this state.

(b) The master of the ship or an official of the flag state commits a suspect on board the ship to the custody of a law enforcement officer acting under the authority of this state.

(c) The state in whose territory the act or omission occurred requests the exercise of jurisdiction by this state.

(d) The act or omission occurs during a voyage on which over half of the revenue passengers on board the ship originally embarked and plan to finally disembark in this state, without regard to intermediate stopovers.

(e) The victim is a Florida law enforcement officer on board the ship in connection with his or her official duties.

(f) The act or omission is one of violence, detention, or depredation generally recognized as criminal, and the victim is a resident of this state.

(g) The act or omission causes or constitutes an attempt or conspiracy to cause a substantial effect in this state that is an element of the offense charged.

(h) The act or omission is one with respect to which all states may exercise criminal jurisdiction under international law or treaty.

(4) CRIMINAL PENALTY APPLICATION.--An act or omission against the person or property of another that is punishable by law when committed within this state shall be punishable in the same manner when committed within the special maritime criminal jurisdiction of this state, provided that the criminal laws of the United States prohibit substantially the same act or omission on board ships of the United States registry outside of the territory of the United States. Except for the circumstances that are within the criteria of paragraph (3)(g) or paragraph (3)(h), it shall be an affirmative defense that the act or omission was authorized by the master of the ship or an officer of the flag state in accordance with the laws of the flag state and international law. No person shall be tried under this section if that person has been tried in good faith by another state for substantially the same act or omission.

(5) ENFORCEMENT LIMITATIONS.--

(a) The Attorney General shall take all measures necessary to ensure that law enforcement officers and prosecutors acting under the authority of this state respect the following criteria in applying the provisions of this section:

1. This section is not intended to assert priority over or otherwise interfere with the exercise of criminal jurisdiction by the United States, the flag state, or the state in whose territory an act or omission occurs.
2. This section shall be administered in a manner consistent with international law, with the primary responsibility of the flag state for the maintenance of order on board ship, and with the responsibilities of the Federal Government under the Constitution, treaties, and laws of the United States.
3. This section shall be applied with the cooperation of the flag state and the master of the ship where feasible.

(b) Nothing in this section shall be deemed to:

1. Authorize the boarding, search, or detention of a ship or of persons or property on board a ship without the consent of the flag state or the master of the ship if the ship is located outside of this state or if the necessary law enforcement activities are otherwise beyond the jurisdiction of this state or the United States.
2. Restrict the application or enforcement of other laws of this state or the duty of law enforcement officers to protect human life, property, or the marine environment from imminent harm.
3. Constitute an assertion of jurisdiction over acts or omissions of military or law enforcement officers authorized by a state in accordance with international laws.

4. Prohibit the operation of gambling, games of chance, or other gambling activities otherwise allowable outside the territorial waters of the State of Florida.

History.--s. 1, ch. 89-201; s. 1511, ch. 97-102.

CHAPTER 921. SENTENCE

921.0012 Sentencing guidelines offense levels; offense severity ranking chart.--

(1) The offense severity ranking chart must be used with the sentencing guidelines worksheet to compute a sentence score for each felony offender.

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe to most severe, and each felony offense is assigned to a level according to the severity of the offense. For purposes of determining which felony offenses are specifically listed in the offense severity ranking chart and which severity level has been assigned to each of these offenses, the numerical statutory references in the left column of the chart and the felony degree designations in the middle column of the chart are controlling; the language in the right column of the chart is provided solely for descriptive purposes. Reclassification of the degree of the felony through the application of s. 775.0845, s. 775.087, s. 775.0875, or s. 794.023, to any offense listed in the offense severity ranking chart in this section shall not cause the offense to become unlisted and is not subject to the provisions of s. 921.0013.

(3) OFFENSE SEVERITY RANKING CHART

Florida
Statute

	Felony Degree	Description
		(a) LEVEL 1
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	

- 320.26(1)(a) 3rd Tamper, adjust, change, etc., an odometer.
- 322.212(1) 3rd Counterfeit, manufacture, or sell registration license plates or validation stickers.
- 322.212(4) 3rd Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification.
- 322.212(5)(a) 3rd Supply or aid in supplying unauthorized driver's license or identification card.
- 370.13(4)(a) 3rd False application for driver's license or identification card.
- 370.135(1) 3rd Molest any stone crab trap, line, or buoy which is property of licenseholder.
- 372.663(1) 3rd Molest any blue crab trap, line, or buoy which is property of licenseholder.
- 414.39(2) 3rd Poach any alligator or crocodilia.
- 414.39(3)(a) 3rd Unauthorized use, possession, forgery, or alteration of food stamps, Medicaid ID, value greater than \$200.
- 443.071(1) 3rd Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
- 458.327(1)(a) 3rd False statement or representation to obtain or increase unemployment compensation benefits.
- 466.026(1)(a) 3rd Unlicensed practice of medicine.
- 509.151(1) 3rd Unlicensed practice of dentistry or dental hygiene.
- 517.302(1) 3rd Defraud an innkeeper, food or lodging value greater than \$300.
- 562.27(1) 3rd Violation of the Florida Securities and Investor Protection Act.
- 713.69 3rd Possess still or still apparatus.
- 713.69 3rd Tenant removes property upon which lien has accrued, value more than \$50.

812.014(3)(c)
3rd
Petit theft (3rd conviction); theft of any property not specified in subsection (2).

812.081(2)
3rd
Unlawfully makes or causes to be made a reproduction of a trade secret.

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.

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.

838.015(3)
3rd
Bribery.

838.016(1)
3rd
Public servant receiving unlawful compensation.

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).

849.01
3rd
Keeping gambling house.

849.09(1)(a)-(d)

3rd
849.23 Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.

3rd
849.25(2) Gambling-related machines; "common offender" as to property rights.

3rd
860.08 Engaging in bookmaking.

3rd
860.13(1)(a) Interfere with a railroad signal.

3rd
893.13(2)(a)2. Operate aircraft while under the influence.

3rd
893.13(6)(a) Purchase of cannabis.

3rd
893.13(7)(a)10. Possession of cannabis (more than 20 grams).

3rd
934.03(1)(a) Affix false or forged label to package of controlled substance.

3rd
403.413(5)(c) Intercepts, or procures any other person to intercept, any wire or oral communication.
(b) LEVEL 2

3rd
517.07 Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.

3rd
590.28(1) Registration of securities and furnishing of prospectus required.

3rd
784.05(3) Willful, malicious, or intentional burning.

3rd
787.04(1) Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.

3rd
806.13(1)(b)3. In violation of court order, take, entice, etc., minor beyond state limits.

3rd
810.09(2)(e) Criminal mischief; damage \$1,000 or more to public communication or any other public service.

3rd
812.014(2)(c)1. Trespassing on posted commercial horticulture property.

3rd
Grand theft, 3rd degree; \$300 or more but less than \$5,000.

812.014(2)(d)
3rd
Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.

817.234(1)(a)2.
3rd
False statement in support of insurance claim.

817.481(3)(a)
3rd
Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.

817.52(3)
3rd
Failure to redeliver hired vehicle.

817.54
3rd
With intent to defraud, obtain mortgage note, etc., by false representation.

817.60(5)
3rd
Dealing in credit cards of another.

817.60(6)(a)
3rd
Forgery; purchase goods, services with false card.

817.61
3rd
Fraudulent use of credit cards over \$100 or more within 6 months.

826.04
3rd
Knowingly marries or has sexual intercourse with person to whom related.

831.01
3rd
Forgery.

831.02
3rd
Uttering forged instrument; utters or publishes alteration with intent to defraud.

831.07
3rd
Forging bank bills or promissory note.

831.08
3rd
Possession of 10 or more forged notes.

831.09
3rd
Uttering forged bills; passes as bank bill or promissory note.

832.05(3)(a)
3rd
Cashing or depositing item with intent to defraud.

843.08
3rd
Falsely impersonating an officer.

893.13(2)(a)2.
3rd
Purchase of any s. 893.03(1)(c), (2)(c), (3), or (4) drugs other than cannabis.

893.147(2)

319.30(4) 3rd Manufacture or delivery of drug paraphernalia.
(c) LEVEL 3

319.33(1)(a) 3rd Possession by junkyard of motor vehicle with identification number plate removed.

319.33(1)(c) 3rd Alter or forge any certificate of title to a motor vehicle or mobile home.

319.33(4) 3rd Procure or pass title on stolen vehicle.

328.05(2) 3rd With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.

328.07(4) 3rd Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

376.302(5) 3rd Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

501.001(2)(b) 2nd Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

697.08 3rd Tamper with a consumer product or the container using materially false/misleading information.

790.15(3) 3rd Equity skimming.

796.05(1) 3rd Person directs another to discharge firearm from a vehicle.

806.10(1) 3rd Live on earnings of a prostitute.

806.10(2) 3rd Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.

810.09(2)(c) 3rd Interferes with or assaults firefighter in performance of duty.

812.014(2)(c)2. 3rd Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.

3rd Grand theft; \$5,000 or more but less than \$10,000.

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.

828.12(2)
3rd
Tortures any animal with intent to inflict intense pain, serious physical injury,
or death.

831.29
2nd
Possession of instruments for counterfeiting driver's licenses or identification
cards.

838.021(3)(b)
3rd
Threatens unlawful harm to public servant.

843.19
3rd
Injure, disable, or kill police dog or horse.

870.01(2)
3rd
Riot; inciting or encouraging.

893.13(1)(a)2.
3rd
Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3),
or (4) drugs).

893.13(1)(d)2.
2nd
Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within
200 feet of university, public housing facility, or public park.

893.13(6)(a)
3rd
Possession of any controlled substance other than felony possession of
cannabis.

893.13(7)(a)9.
3rd
Obtain or attempt to obtain controlled substance by fraud, forgery,
misrepresentation, etc.

893.13(7)(a)11.
3rd
Furnish false or fraudulent material information on any document or record
required by chapter 893.

918.13(1)(a)
3rd
Alter, destroy, or conceal investigation evidence.

2944.401
3rd
Escapes from juvenile facility (secure detention or residential commitment
facility).

944.47(1)(a)1.-2.
3rd

944.47(1)(c) 2nd Introduce contraband to correctional facility.

316.1935(2) 3rd Possess contraband while upon the grounds of a correctional institution.
(d) LEVEL 4

784.07(2)(b) 3rd Fleeing or attempting to elude law enforcement officer resulting in high-speed pursuit.

784.075 3rd Battery of law enforcement officer, firefighter, intake officer, etc.

784.08(2)(c) 3rd Battery on detention or commitment facility staff.

784.081(3) 3rd Battery on a person 65 years of age or older.

784.082(3) 3rd Battery on specified official or employee.

787.03(1) 3rd Battery by detained person on visitor or other detainee.

787.04(2) 3rd Interference with custody; wrongly takes child from appointed guardian.

787.04(3) 3rd Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

790.115(1) 3rd Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

790.115(2)(b) 3rd Exhibiting firearm or weapon within 1,000 feet of a school.

790.115(2)(c) 3rd Possessing electric weapon or device, destructive device, or other weapon on school property.

810.02(4)(a) 3rd Possessing firearm on school property.

810.02(4)(b) 3rd Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

810.06 3rd Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

810.06 3rd Burglary; possession of tools.

810.08(2)(c)
3rd
Trespass on property, armed with firearm or dangerous weapon.

812.014(2)(c)3.
3rd
Grand theft, 3rd degree \$10,000 or more but less than \$20,000.

812.014(2)(c)4.-10.
3rd
Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.

817.563(1)
3rd
Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.

828.125(1)
2nd
Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

837.02(1)
3rd
Perjury in official proceedings.

837.021(1)
3rd
Make contradictory statements in official proceedings.

843.025
3rd
Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

843.15(1)(a)
3rd
Failure to appear while on bail for felony (bond estreature or bond jumping).

874.05(1)
3rd
Encouraging or recruiting another to join a criminal street gang.

893.13(2)(a)1.
2nd
Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), or (2)(a) or (b) drugs).

914.14(2)
3rd
Witnesses accepting bribes.

914.22(1)
3rd
Force, threaten, etc., witness, victim, or informant.

914.23(2)
3rd
Retaliation against a witness, victim, or informant, no bodily injury.

918.12
3rd
Tampering with jurors.
3(e) LEVEL 5

316.027(1)(a)
3rd
Accidents involving personal injuries, failure to stop; leaving scene.

316.1935(3)
3rd

4322.34(3) Aggravated fleeing or eluding.
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.

381.0041(11)(b) 3rd
Donate blood, plasma, or organs knowing HIV positive.

790.01(2) 3rd
Carrying a concealed firearm.

790.162 2nd
Threat to throw or discharge destructive device.

790.163 2nd
False report of deadly explosive.

790.165(2) 3rd
Manufacture, sell, possess, or deliver hoax bomb.

790.221(1) 2nd
Possession of short-barreled shotgun or machine gun.

790.23 2nd
Felons in possession of firearms or electronic weapons or devices.

806.111(1) 3rd
Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

812.019(1) 2nd
Stolen property; dealing in or trafficking in.

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.

825.1025(4) 3rd
Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

827.071(4) 2nd
Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

843.01 3rd
Resist officer with violence to person; resist arrest with violence.

874.05(2) 2nd
Encouraging or recruiting another to join a criminal street gang; second or

- subsequent offense.
- 893.13(1)(a)1.
2nd
Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
- 893.13(1)(c)2.
2nd
Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs) within 1,000 feet of a child care facility or school.
- 893.13(1)(d)1.
1st
Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 200 feet of university, public housing facility, or public park.
- 893.13(1)(e)
2nd
Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs) within 1,000 feet of property used for religious services or a specified business site.
- 893.13(4)(b)
2nd
Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
3(f) LEVEL 6
- 316.027(1)(b)
2nd
Accident involving death, failure to stop; leaving scene.
- 316.193(2)(b)
3rd
Felony DUI, 4th or subsequent conviction.
- 775.0875(1)
3rd
Taking firearm from law enforcement officer.
- 775.21(9)
3rd
Failure to register; failure to renew driver's license or identification card.
- 784.021(1)(a)
3rd
Aggravated assault; deadly weapon without intent to kill.
- 784.021(1)(b)
3rd
Aggravated assault; intent to commit felony.
- 784.041
3rd
Felony battery.
- 784.048(3)
3rd
Aggravated stalking; credible threat.
- 784.048(5)
3rd
Aggravated stalking of person under 16.
- 784.07(2)(c)
2nd
Aggravated assault on law enforcement officer.
- 784.08(2)(b)
2nd

784.081(2) 2nd Aggravated assault on a person 65 years of age or older.

784.082(2) 2nd Aggravated assault on specified official or employee.

787.02(2) 3rd Aggravated assault by detained person on visitor or other detainee.

790.115(2)(d) 2nd False imprisonment; restraining with purpose other than those in s. 787.01.

790.161(2) 2nd Discharging firearm or weapon on school property.

790.164(1) 2nd Make, possess, or throw destructive device with intent to do bodily harm or damage property.

790.19 2nd False report of deadly explosive or act of arson or violence to state property.

794.011(8)(a) 3rd Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.

794.05(1) 2nd Solicitation of minor to participate in sexual activity by custodial adult.

806.031(2) 2nd Unlawful sexual activity with specified minor.

810.02(3)(c) 2nd Arson resulting in great bodily harm to firefighter or any other person.

812.014(2)(b) 2nd Burglary of occupied structure; unarmed; no assault or battery.

812.13(2)(c) 2nd Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

817.034(4)(a)1. 1st Robbery, no firearm or other weapon (strong-arm robbery).

817.4821(5) 2nd Communications fraud, value greater than \$50,000.

825.102(1) 3rd Possess cloning paraphernalia with intent to create cloned cellular telephones.

825.102(3)(c) 3rd Abuse of an elderly person or disabled adult.

825.102(3)(c) 3rd Neglect of an elderly person or disabled adult.

825.1025(3)
3rd
Lewd or lascivious molestation of an elderly person or disabled adult.

825.103(2)(c)
3rd
Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.

827.03(1)
3rd
Abuse of a child.

827.03(3)(c)
3rd
Neglect of a child.

827.071(2)&(3)
2nd
Use or induce a child in a sexual performance, or promote or direct such performance.

836.05
2nd
Threats; extortion.

836.10
2nd
Written threats to kill or do bodily injury.

843.12
3rd
Aids or assists person to escape.

914.23
2nd
Retaliation against a witness, victim, or informant, with bodily injury.

943.0435(6)
3rd
Sex offenders; failure to comply with reporting requirements.

944.35(3)(a)2.
3rd
Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.

944.40
2nd
Escapes.

944.46
3rd
Harboring, concealing, aiding escaped prisoners.

944.47(1)(a)5.
2nd
Introduction of contraband (firearm, weapon, or explosive) into correctional facility.

951.22(1)
3rd
Intoxicating drug, firearm, or weapon introduced into county facility.
(g) LEVEL 7

316.193(3)(c)2.
3rd
DUI resulting in serious bodily injury.

327.35(3)(c)2.
3rd

409.920(2)		Vessel BUI resulting in serious bodily injury.
	3rd	
494.0018(2)		Medicaid provider fraud.
	1st	
		Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
782.07(1)		
	2nd	
		Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
5782.071(1)		
	3rd	
		Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).
6782.072(1)		
	3rd	
		Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.		
	2nd	
		Aggravated battery; intentionally causing great bodily harm or disfigurement.
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.
784.07(2)(d)		
	1st	
		Aggravated battery on law enforcement officer.
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.
790.07(4)		
	1st	
		Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)		
	1st	
		Discharge of a machine gun under specified circumstances.
796.03		
	2nd	
		Procuring any person under 16 years for prostitution.
800.04		

- 2nd
806.01(2) Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.
- 2nd
810.02(3)(a) Maliciously damage structure by fire or explosive.
- 2nd
810.02(3)(b) Burglary of occupied dwelling; unarmed; no assault or battery.
- 2nd
810.02(3)(d) Burglary of unoccupied dwelling; unarmed; no assault or battery.
- 2nd
812.014(2)(a) Burglary of occupied conveyance; unarmed; no assault or battery.
- 1st
812.019(2) Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
- 1st
812.133(2)(b) Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
- 1st
825.102(3)(b) Carjacking; no firearm, deadly weapon, or other weapon.
- 2nd
825.1025(2) Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
- 2nd
825.103(2)(b) Lewd or lascivious battery upon an elderly person or disabled adult.
- 2nd
827.03(3)(b) Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
- 2nd
7827.04(4) Neglect of a child causing great bodily harm, disability, or disfigurement.
- 3rd
837.05(2) Impregnation of a child under 16 years of age by person 21 years of age or older.
- 3rd
872.06 Giving false information about alleged capital felony to a law enforcement officer.
- 2nd
893.13(1)(c)1. Abuse of a dead human body.
- 1st
Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a child care facility or school.

- 893.13(1)(e)
1st
Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of property used for religious services or a specified business site.
- 893.13(4)(a)
1st
Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
- 893.135(1)(a)1.
1st
Trafficking in cannabis, more than 50 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(1)(c)1.a.
1st
Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
- 893.135(1)(d)1.
1st
Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
- 893.135(1)(e)1.
1st
Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
- 893.135(1)(f)1.
1st
Trafficking in amphetamine, more than 14 grams, less than 28 grams.
- 893.135(1)(g)1.a.
1st
Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
(h) LEVEL 8
- 316.193(3)(c)3.a.
2nd
DUI manslaughter.
- 327.35(3)(c)3.
2nd
Vessel BUI manslaughter.
- 777.03(2)(a)
1st
Accessory after the fact, capital felony.
- 782.04(4)
2nd
Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
- 782.071(2)
2nd
Committing vehicular homicide and failing to render aid or give information.
- 782.072(2)
2nd
Committing vessel homicide and failing to render aid or give information.
- 790.161(3)
1st
Discharging a destructive device which results in bodily harm or property damage.
- 794.011(5)

- 2nd
806.01(1) Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
- 1st
810.02(2)(a) Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
- 1st,PBL
810.02(2)(b) Burglary with assault or battery.
- 1st,PBL
810.02(2)(c) Burglary; armed with explosives or dangerous weapon.
- 1st
812.13(2)(b) Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
- 1st
812.135(2) Robbery with a weapon.
- 1st
825.102(2) Home-invasion robbery.
- 2nd
825.103(2)(a) Aggravated abuse of an elderly person or disabled adult.
- 1st
827.03(2) Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
- 2nd
837.02(2) Aggravated child abuse.
- 2nd
837.021(2) Perjury in official proceedings relating to prosecution of capital felony.
- 2nd
860.121(2)(c) Making contradictory statements in official proceedings relating to prosecution of capital felony.
- 1st
860.16 Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
- 1st
893.13(1)(b) Aircraft piracy.
- 1st
893.13(2)(b) Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
- 1st
893.13(6)(c) Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

- 1st
Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
- 893.135(1)(a)2.
1st
Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
- 893.135(1)(b)1.b.
1st
Trafficking in cocaine, more than 200 grams, less than 400 grams.
- 893.135(1)(c)1.b.
1st
Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
- 8893.135(1)(d)2.
1st
Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
- 9893.135(1)(e)2.
1st
Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
- 10893.135(1)(f)2.
1st
Trafficking in amphetamine, more than 28 grams, less than 200 grams.
- 893.135(1)(g)1.b.
1st
Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
- 895.03(1)
1st
Use or invest proceeds derived from pattern of racketeering activity.
- 895.03(2)
1st
Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
- 895.03(3)
1st
Conduct or participate in any enterprise through pattern of racketeering activity.
(i) LEVEL 9
- 316.193(3)(c)3.b.
1st
DUI manslaughter; failing to render aid or give information.
- 782.04(1)
1st
Attempt, conspire, or solicit to commit premeditated murder.
- 782.04(3)
1st,PBL
Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
- 782.07(2)
1st
Aggravated manslaughter of an elderly person or disabled adult.
- 782.07(3)
1st
Aggravated manslaughter of a child.
- 787.01(1)(a)1.
1st,PBL
Kidnapping; hold for ransom or reward or as a shield or hostage.
- 787.01(1)(a)2.

1st,PBL
Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.
1st,PBL
Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)
1st
False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
790.161
1st
Attempted capital destructive device offense.
794.011(2)
1st
Attempted sexual battery; victim less than 12 years of age.
794.011(2)
Life
Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)
1st
Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)
1st
Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
812.13(2)(a)
1st,PBL
Robbery with firearm or other deadly weapon.
812.133(2)(a)
1st,PBL
Carjacking; firearm or other deadly weapon.
847.0145(1)
1st
Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)
1st
Purchasing, or otherwise obtaining custody or control, of a minor.
859.01
1st
Poisoning food, drink, medicine, or water with intent to kill or injure another person.
893.135
1st
Attempted capital trafficking offense.
893.135(1)(a)3.
1st
Trafficking in cannabis, more than 10,000 lbs.
893.135(1)(b)1.c.
1st
Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135(1)(c)1.c.
1st
Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
11893.135(1)(d)3.

- 1st
12893.135(1)(e)3. Trafficking in phencyclidine, more than 400 grams.
- 1st
13893.135(1)(f)3. Trafficking in methaqualone, more than 25 kilograms.
- 1st
782.04(2) Trafficking in amphetamine, more than 200 grams.
(j) LEVEL 10
- 1st,PBL
787.01(1)(a)3. Unlawful killing of human; act is homicide, unpremeditated.
- 1st,PBL
787.01(3)(a) Kidnapping; inflict bodily harm upon or terrorize victim.
- Life
794.011(3) Kidnapping; child under age 13, perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
- Life
876.32 Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.
- 1st
Treason against the state.

History.--s. 10, ch. 93-406; s. 3, ch. 94-307; s. 19, ch. 95-158; s. 5, ch. 95-184; s. 108, ch. 96-175; s. 7, ch. 96-215; s. 12, ch. 96-260; s. 2, ch. 96-264; s. 1, ch. 96-280; s. 5, ch. 96-293; s. 7, ch. 96-312; s. 13, ch. 96-322; s. 25, ch. 96-330; s. 8, ch. 96-387; s. 51, ch. 96-388; s. 3, ch. 96-393; s. 3, ch. 96-409; s. 4, ch. 97-1; s. 3, ch. 97-27; s. 2, ch. 97-43; s. 8, ch. 97-78; s. 6, ch. 97-90; s. 2, ch. 97-183; s. 1, ch. 97-194; s. 6, ch. 97-206; s. 2, ch. 97-269; s. 14, ch. 97-299; s. 53, ch. 98-280.

1Note.--

A. Section 3, ch. 97-183, provides that "[t]his act shall take effect October 1, 1997, and shall apply to offenses committed on or after that date."

B. Section 1, ch. 97-194, provides that "[s]ections 921.0001, 921.001, 921.0011, 921.0012, 921.0013, 921.0014, 921.0015, 921.0016, and 921.005, Florida Statutes, as amended by this act, are repealed effective October 1, 1998, except that those sections shall remain in effect with respect to any crime committed before October 1, 1998."

C. Section 43, ch. 97-194, provides that "[t]he Division of Statutory Revision . . . shall leave the repealed statutory provisions referenced herein in the Florida Statutes for 10 years from October 1, 1998."

2Note.--Transferred to s. 985.3141 by s. 4, ch. 98-207.

3Note.--As amended by s. 7, ch. 96-312, "[e]ffective for offenses committed on or after October 1, 1996."

4Note.--Redesignated as s. 322.34(6) by s. 40, ch. 97-300.

5Note.--Section 14, ch. 96-330, redesignated portions of s. 782.071 to provide the definition of "vehicular homicide" in the introductory language to the section and the penalties in subsections (1) and (2).

6Note.--Section 15, ch. 96-330, redesignated portions of s. 782.072 to provide the definition of "vessel homicide" in the introductory language to the section and the penalties in subsections (1) and (2).

7Note.--Subsection (4) was redesignated as subsection (3) to conform to the redesignation of subunits by s. 10, ch. 96-322.

8Note.--Redesignated as s. 893.135(1)(d)1.b. by s. 54, ch. 96-388.

9Note.--Redesignated as s. 893.135(1)(e)1.b. by s. 54, ch. 96-388.

10Note.--Redesignated as s. 893.135(1)(f)1.b. by s. 54, ch. 96-388.

11Note.--Amended by s. 54, ch. 96-388, and redesignated as s. 893.135(1)(d)1.c.

12Note.--Amended by s. 54, ch. 96-388, and redesignated as s. 893.135(1)(e)1.c.

13Note.--Amended by s. 54, ch. 96-388, and redesignated as s. 893.135(1)(f)1.c.

1921.0022 Criminal Punishment Code; offense severity ranking chart.--

(1) The offense severity ranking chart must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998.

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe, which are level 1 offenses, to most severe, which are level 10 offenses, and each felony offense is assigned to a level according to the severity of the offense. For purposes of determining which felony offenses are specifically listed in the offense severity ranking chart and which severity level has been assigned to each of these offenses, the numerical statutory references in the left column of the chart and the felony degree designations in the middle column of the chart are controlling; the language in the right column of the chart is provided solely for descriptive purposes. Reclassification of the degree of the felony through the application of s. 775.0845, s. 775.087, s. 775.0875, s. 794.023, or any other law that provides an enhanced penalty for a felony offense, to any offense listed in the offense severity ranking chart in this section shall not cause the offense to become unlisted and is not subject to the provisions of s. 921.0023.

(3) OFFENSE SEVERITY RANKING CHART

Florida
Statute

Felony Degree	Description
	(a) LEVEL 1
24.118(3)(a) 3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b) 3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b) 3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.
319.30(5) 3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a) 3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a) 3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
322.212(1) 3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification.
322.212(4) 3rd	Supply or aid in supplying unauthorized driver's license or identification card.
322.212(5)(a) 3rd	False application for driver's license or identification card.
370.13(4)(a) 3rd	Molest any stone crab trap, line, or buoy which is property of licenseholder.
370.135(1) 3rd	Molest any blue crab trap, line, or buoy which is property of licenseholder.
372.663(1) 3rd	Poach any alligator or crocodilia.
414.39(2) 3rd	Unauthorized use, possession, forgery, or alteration of food stamps, Medicaid ID, value greater than \$200.
414.39(3)(a) 3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
443.071(1) 3rd	False statement or representation to obtain or increase unemployment compensation benefits.

458.327(1)(a)
3rd
Unlicensed practice of medicine.

466.026(1)(a)
3rd
Unlicensed practice of dentistry or dental hygiene.

509.151(1)
3rd
Defraud an innkeeper, food or lodging value greater than \$300.

517.302(1)
3rd
Violation of the Florida Securities and Investor Protection Act.

562.27(1)
3rd
Possess still or still apparatus.

713.69
3rd
Tenant removes property upon which lien has accrued, value more than \$50.

812.014(3)(c)
3rd
Petit theft (3rd conviction); theft of any property not specified in subsection (2).

812.081(2)
3rd
Unlawfully makes or causes to be made a reproduction of a trade secret.

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.

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.

838.015(3)
3rd
Bribery.

838.016(1)
3rd
Public servant receiving unlawful compensation.

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).

849.01
3rd
Keeping gambling house.

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).

893.13(7)(a)10.
3rd
Affix false or forged label to package of controlled substance.

934.03(1)(a)
3rd
Intercepts, or procures any other person to intercept, any wire or oral communication.
(b) LEVEL 2

403.413(5)(c)
3rd
Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.

517.07
3rd
Registration of securities and furnishing of prospectus required.

590.28(1)

784.05(3)	3rd	Willful, malicious, or intentional burning.
	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07		

831.08	3rd	Forging bank bills or promissory note.
831.09	3rd	Possession of 10 or more forged notes.
832.05(3)(a)	3rd	Uttering forged bills; passes as bank bill or promissory note.
843.08	3rd	Cashing or depositing item with intent to defraud.
893.13(2)(a)2.	3rd	False impersonating an officer.
893.147(2)	3rd	Purchase of any s. 893.03(1)(c), (2)(c), (3), or (4) drugs other than cannabis.
316.1935(2)	3rd	Manufacture or delivery of drug paraphernalia. (c) LEVEL 3
319.30(4)	3rd	Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated.
319.33(1)(a)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(c)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(4)	3rd	Procure or pass title on stolen vehicle.
328.05(2)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
328.07(4)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
376.302(5)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
501.001(2)(b)	2nd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
	2nd	Tampers with a consumer product or the container using materially false/misleading information.

697.08
3rd
Equity skimming.

790.15(3)
3rd
Person directs another to discharge firearm from a vehicle.

796.05(1)
3rd
Live on earnings of a prostitute.

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)(c)
3rd
Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.

812.014(2)(c)2.
3rd
Grand theft; \$5,000 or more but less than \$10,000.

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.

828.12(2)
3rd
Tortures any animal with intent to inflict intense pain, serious physical injury, or death.

831.29
2nd
Possession of instruments for counterfeiting drivers' licenses or identification cards.

838.021(3)(b)
3rd
Threatens unlawful harm to public servant.

843.19
3rd
Injure, disable, or kill police dog or horse.

870.01(2)
3rd
Riot; inciting or encouraging.

893.13(1)(a)2.
3rd
Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).

893.13(1)(d)2.
2nd

- 893.13(1)(f)2. 2nd Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of university or public park.
- 893.13(6)(a) 3rd Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of public housing facility.
- 893.13(7)(a)9. 3rd Possession of any controlled substance other than felony possession of cannabis.
- 893.13(7)(a)11. 3rd Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
- 918.13(1)(a) 3rd Furnish false or fraudulent material information on any document or record required by chapter 893.
- 944.47(1)(a)1.-2. 3rd Alter, destroy, or conceal investigation evidence.
- 944.47(1)(c) 2nd Introduce contraband to correctional facility.
- 985.3141 3rd Possess contraband while upon the grounds of a correctional institution.
- 316.1935(3) 2nd Escapes from a juvenile facility (secure detention or residential commitment facility).
2(d) LEVEL 4
- 784.07(2)(b) 3rd Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a marked patrol vehicle with siren and lights activated.
- 784.075 3rd Battery of law enforcement officer, firefighter, intake officer, etc.
- 784.08(2)(c) 3rd Battery on detention or commitment facility staff.
- 784.081(3) 3rd Battery on a person 65 years of age or older.
- 784.082(3) 3rd Battery on specified official or employee.
- 784.083(3) 3rd Battery by detained person on visitor or other detainee.
- 787.03(1) 3rd Battery on code inspector.

3rd
787.04(2) Interference with custody; wrongly takes child from appointed guardian.

3rd
787.04(3) Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

3rd
790.115(1) Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

3rd
790.115(2)(b) Exhibiting firearm or weapon within 1,000 feet of a school.

3rd
790.115(2)(c) Possessing electric weapon or device, destructive device, or other weapon on school property.

3rd
810.02(4)(a) Possessing firearm on school property.

3rd
810.02(4)(b) Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

3rd
810.06 Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

3rd
810.08(2)(c) Burglary; possession of tools.

3rd
812.014(2)(c)3. Trespass on property, armed with firearm or dangerous weapon.

3rd
812.014(2)(c)4.-10. Grand theft, 3rd degree \$10,000 or more but less than \$20,000.

3rd
817.563(1) Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.

3rd
828.125(1) Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.

2nd
837.02(1) Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

3rd
837.021(1) Perjury in official proceedings.

3rd
843.025 Make contradictory statements in official proceedings.

3rd

		Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
874.05(1)	3rd	Encouraging or recruiting another to join a criminal street gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), or (2)(a) or (b) drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	3rd	Tampering with jurors. (e) LEVEL 5
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)	2nd	Aggravated fleeing or eluding.
3322.34(3)	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.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163	2nd	False report of deadly explosive.
790.165(2)	3rd	Manufacture, sell, possess, or deliver hoax bomb.
790.221(1)	2nd	

790.23		Possession of short-barreled shotgun or machine gun.
	2nd	
806.111(1)		Felons in possession of firearms or electronic weapons or devices.
	3rd	
812.019(1)		Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
	2nd	
812.16(2)		Stolen property; dealing in or trafficking in.
	3rd	
817.034(4)(a)2.		Owning, operating, or conducting a chop shop.
	2nd	
825.1025(4)		Communications fraud, value \$20,000 to \$50,000.
	3rd	
827.071(4)		Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
	2nd	
843.01		Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
	3rd	
874.05(2)		Resist officer with violence to person; resist arrest with violence.
	2nd	
893.13(1)(a)1.		Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
	2nd	
893.13(1)(c)2.		Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
	2nd	
893.13(1)(d)1.		Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs) within 1,000 feet of a child care facility or school.
	1st	
893.13(1)(e)		Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 200 feet of university or public park.
	2nd	
893.13(1)(f)1.		Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c), (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
	1st	
893.13(4)(b)		Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), or (2)(b) drugs) within 200 feet of public housing facility.
	2nd	
		Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4)

drugs).
2(f) LEVEL 6

316.027(1)(b)
2nd
Accident involving death, failure to stop; leaving scene.

316.193(2)(b)
3rd
Felony DUI, 4th or subsequent conviction.

775.0875(1)
3rd
Taking firearm from law enforcement officer.

4775.21(9)
3rd
Sexual predators; failure to register; failure to renew driver's license or identification card.

784.021(1)(a)
3rd
Aggravated assault; deadly weapon without intent to kill.

784.021(1)(b)
3rd
Aggravated assault; intent to commit felony.

784.041
3rd
Felony battery.

784.048(3)
3rd
Aggravated stalking; credible threat.

784.048(5)
3rd
Aggravated stalking of person under 16.

784.07(2)(c)
2nd
Aggravated assault on law enforcement officer.

784.08(2)(b)
2nd
Aggravated assault on a person 65 years of age or older.

784.081(2)
2nd
Aggravated assault on specified official or employee.

784.082(2)
2nd
Aggravated assault by detained person on visitor or other detainee.

784.083(2)
2nd
Aggravated assault on code inspector.

787.02(2)
3rd
False imprisonment; restraining with purpose other than those in s. 787.01.

790.115(2)(d)
2nd
Discharging firearm or weapon on school property.

790.161(2)
2nd
Make, possess, or throw destructive device with intent to do bodily harm or damage property.

790.164(1)

	2nd	False report of deadly explosive or act of arson or violence to state property.
790.19		
	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a)		
	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)		
	2nd	Unlawful sexual activity with specified minor.
806.031(2)		
	2nd	Arson resulting in great bodily harm to firefighter or any other person.
810.02(3)(c)		
	2nd	Burglary of occupied structure; unarmed; no assault or battery.
812.014(2)(b)		
	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
812.13(2)(c)		
	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.034(4)(a)1.		
	1st	Communications fraud, value greater than \$50,000.
817.4821(5)		
	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
825.102(1)		
	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)		
	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)		
	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(2)(c)		
	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
827.03(1)		
	3rd	Abuse of a child.
827.03(3)(c)		
	3rd	Neglect of a child.
827.071(2)&(3)		
	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
836.05		

836.1	2nd	Threats; extortion.
843.12	2nd	Written threats to kill or do bodily injury.
847.0135(3)	3rd	Aids or assists person to escape.
914.23	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
5943.0435(6)	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
944.35(3)(a)2.	3rd	Sex offenders; failure to comply with reporting requirements.
944.4	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
944.46	2nd	Escapes.
944.47(1)(a)5.	3rd	Harboring, concealing, aiding escaped prisoners.
951.22(1)	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
316.193(3)(c)2.	3rd	Intoxicating drug, firearm, or weapon introduced into county facility. 2(g) LEVEL 7
327.35(3)(c)2.	3rd	DUI resulting in serious bodily injury.
409.920(2)	3rd	Vessel BUI resulting in serious bodily injury.
494.0018(2)	3rd	Medicaid provider fraud.
782.051(3)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
782.07(1)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

782.071		Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
	3rd	
		Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072		
	3rd	
		Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.		
	2nd	
		Aggravated battery; intentionally causing great bodily harm or disfigurement.
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.
784.07(2)(d)		
	1st	
		Aggravated battery on law enforcement officer.
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.
784.083(1)		
	1st	
		Aggravated battery on code inspector.
790.07(4)		
	1st	
		Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)		
	1st	
		Discharge of a machine gun under specified circumstances.
796.03		
	2nd	
		Procuring any person under 16 years for prostitution.
800.04		
	2nd	
		Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.
806.01(2)		
	2nd	
		Maliciously damage structure by fire or explosive.
810.02(3)(a)		
	2nd	

- 810.02(3)(b) 2nd Burglary of occupied dwelling; unarmed; no assault or battery.
- 810.02(3)(d) 2nd Burglary of unoccupied dwelling; unarmed; no assault or battery.
- 812.014(2)(a) 1st Burglary of occupied conveyance; unarmed; no assault or battery.
- 812.019(2) 1st Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
- 812.133(2)(b) 1st Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
- 825.102(3)(b) 2nd Carjacking; no firearm, deadly weapon, or other weapon.
- 825.1025(2) 2nd Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
- 825.103(2)(b) 2nd Lewd or lascivious battery upon an elderly person or disabled adult.
- 827.03(3)(b) 2nd Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
- 6827.04(4) 3rd Neglect of a child causing great bodily harm, disability, or disfigurement.
- 837.05(2) 3rd Impregnation of a child under 16 years of age by person 21 years of age or older.
- 872.06 2nd Giving false information about alleged capital felony to a law enforcement officer.
- 893.13(1)(c)1. 1st Abuse of a dead human body.
- 893.13(1)(e) 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b)) within 1,000 feet of a child care facility or school.
- 893.13(4)(a) 1st Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b), within 1,000 feet of property used for religious services or a specified business site.
- 893.13(4)(a) 1st Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or

- (2)(b) drugs).
- 893.135(1)(a)1.
1st
Trafficking in cannabis, more than 50 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(1)(c)1.a.
1st
Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
- 893.135(1)(d)1.
1st
Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
- 893.135(1)(e)1.
1st
Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
- 893.135(1)(f)1.
1st
Trafficking in amphetamine, more than 14 grams, less than 28 grams.
- 893.135(1)(g)1.a.
1st
Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
- (h) LEVEL 8
- 316.193(3)(c)3.a.
2nd
DUI manslaughter.
- 327.35(3)(c)3.
2nd
Vessel BUI manslaughter.
- 777.03(2)(a)
1st
Accessory after the fact, capital felony.
- 782.04(4)
2nd
Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
- 782.051(2)
1st
Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
- 782.071(2)
2nd
Committing vehicular homicide and failing to render aid or give information.
- 782.072(2)
2nd
Committing vessel homicide and failing to render aid or give information.
- 790.161(3)
1st
Discharging a destructive device which results in bodily harm or property damage.
- 794.011(5)
2nd
Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
- 806.01(1)

- 1st
Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
- 810.02(2)(a)
1st,PBL
Burglary with assault or battery.
- 810.02(2)(b)
1st,PBL
Burglary; armed with explosives or dangerous weapon.
- 810.02(2)(c)
1st
Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
- 812.13(2)(b)
1st
Robbery with a weapon.
- 812.135(2)
1st
Home-invasion robbery.
- 825.102(2)
2nd
Aggravated abuse of an elderly person or disabled adult.
- 825.103(2)(a)
1st
Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
- 827.03(2)
2nd
Aggravated child abuse.
- 837.02(2)
2nd
Perjury in official proceedings relating to prosecution of a capital felony.
- 837.021(2)
2nd
Making contradictory statements in official proceedings relating to prosecution of a capital felony.
- 860.121(2)(c)
1st
Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
- 860.16
1st
Aircraft piracy.
- 893.13(1)(b)
1st
Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
- 893.13(2)(b)
1st
Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
- 893.13(6)(c)
1st
Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
- 893.135(1)(a)2.

- 1st
893.135(1)(b)1.b. Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
1st
- 893.135(1)(c)1.b. Trafficking in cocaine, more than 200 grams, less than 400 grams.
1st
- 893.135(1)(d)1.b. Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
1st
- 893.135(1)(e)1.b. Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
1st
- 893.135(1)(f)1.b. Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
1st
- 893.135(1)(g)1.b. Trafficking in amphetamine, more than 28 grams, less than 200 grams.
1st
- 895.03(1) Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
1st
- 895.03(2) Use or invest proceeds derived from pattern of racketeering activity.
1st
- 895.03(3) Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
1st
- 316.193(3)(c)3.b. Conduct or participate in any enterprise through pattern of racketeering activity.
1st
(i) LEVEL 9
- 782.04(1) DUI manslaughter; failing to render aid or give information.
1st
- 782.04(3) Attempt, conspire, or solicit to commit premeditated murder.
1st,PBL
- 782.051(1) Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
1st
- 782.07(2) Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
1st
- 782.07(3) Aggravated manslaughter of an elderly person or disabled adult.
1st
- 787.01(1)(a)1. Aggravated manslaughter of a child.
1st,PBL
- 787.01(1)(a)2. Kidnapping; hold for ransom or reward or as a shield or hostage.

1st,PBL
Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.
1st,PBL
Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)
1st
False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
790.161
1st
Attempted capital destructive device offense.
794.011(2)
1st
Attempted sexual battery; victim less than 12 years of age.
794.011(2)
Life
Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)
1st
Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)
1st
Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
812.13(2)(a)
1st,PBL
Robbery with firearm or other deadly weapon.
812.133(2)(a)
1st,PBL
Carjacking; firearm or other deadly weapon.
847.0145(1)
1st
Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)
1st
Purchasing, or otherwise obtaining custody or control, of a minor.
859.01
1st
Poisoning food, drink, medicine, or water with intent to kill or injure another person.
893.135
1st
Attempted capital trafficking offense.
893.135(1)(a)3.
1st
Trafficking in cannabis, more than 10,000 lbs.
893.135(1)(b)1.c.
1st
Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135(1)(c)1.c.
1st
Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135(1)(d)1.c.

- 1st
893.135(1)(e)1.c. Trafficking in phencyclidine, more than 400 grams.
- 1st
893.135(1)(f)1.c. Trafficking in methaqualone, more than 25 kilograms.
- 1st
782.04(2) Trafficking in amphetamine, more than 200 grams.
(j) LEVEL 10
- 1st,PBL
787.01(1)(a)3. Unlawful killing of human; act is homicide, unpremeditated.
- 1st,PBL
787.01(3)(a) Kidnapping; inflict bodily harm upon or terrorize victim.
- Life
794.011(3) Kidnapping; child under age 13, perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
- Life
876.32 Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.
- 1st
876.32 Treason against the state.

History.--s. 5, ch. 97-194; s. 2, ch. 98-22; s. 2, ch. 98-24; s. 4, ch. 98-204; s. 5, ch. 98-207; s. 2, ch. 98-274; s. 54, ch. 98-280; ss. 6, 10, ch. 98-417.

1Note.--Section 2, ch. 97-194, as amended by s. 1, ch. 98-204, provides that "[t]he Florida Criminal Punishment Code, consisting of sections 921.002-921.0026, Florida Statutes, is established effective October 1, 1998, and applies to any felony committed on or after that date, excluding any capital felony."

2Note.--Section 3, ch. 98-24, provides that "[t]his act shall take effect October 1 of [1998], and shall apply to offenses committed on or after that date."

3Note.--Redesignated as s. 322.34(6) by s. 40, ch. 97-300.

4Note.--Redesignated as s. 775.21(10) by s. 3, ch. 98-81.

5Note.--Redesignated as s. 943.0435(9) by s. 7, ch. 98-81.

6Note.--Subsection (4) was redesignated as subsection (3) to conform to the redesignation of subunits by s. 10, ch. 96-322.

CHAPTER 932. PROVISIONS SUPPLEMENTAL TO CRIMINAL PROCEDURE LAW

932.701 Short title; definitions.--

(1) Sections 932.701-932.707 shall be known and may be cited as the "Florida Contraband Forfeiture Act."

(2) As used in the Florida Contraband Forfeiture Act:

(a) "Contraband article" means:

1. Any controlled substance as defined in chapter 893 or any substance, device, paraphernalia, or currency or other means of exchange that was used, was attempted to be used, or was intended to be used in violation of any provision of chapter 893, if the totality of the facts presented by the state is clearly sufficient to meet the state's burden of establishing probable cause to believe that a nexus exists between the article seized and the narcotics activity, whether or not the use of the contraband article can be traced to a specific narcotics transaction.

2. Any gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was used, was attempted, or intended to be used in violation of the gambling laws of the state.

3. Any equipment, liquid or solid, which was being used, is being used, was attempted to be used, or intended to be used in violation of the beverage or tobacco laws of the state.

4. Any motor fuel upon which the motor fuel tax has not been paid as required by law.

5. Any personal property, including, but not limited to, any vessel, aircraft, item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, securities, books, records, research, negotiable instruments, or currency, which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, whether or not comprising an element of the felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

6. Any real property, including any right, title, leasehold, or other interest in the whole of any lot or tract of land, which was used, is being used, or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

7. Any personal property, including, but not limited to, equipment, money, securities, books, records, research, negotiable instruments, currency, or any vessel, aircraft, item, object, tool, substance, device, weapon, machine, or

vehicle of any kind in the possession of or belonging to any person who takes aquaculture products in violation of s. 812.014(2)(c).

(b) "Bona fide lienholder" means the holder of a lien perfected pursuant to applicable law.

(c) "Promptly proceed" means to file the complaint within 45 days after seizure.

(d) "Complaint" is a petition for forfeiture filed in the civil division of the circuit court by the seizing agency requesting the court to issue a judgment of forfeiture.

(e) "Person entitled to notice" means any owner, entity, bona fide lienholder, or person in possession of the property subject to forfeiture when seized, who is known to the seizing agency after a diligent search and inquiry.

(f) "Adversarial preliminary hearing" means a hearing in which the seizing agency is required to establish probable cause that the property subject to forfeiture was used in violation of the Florida Contraband Forfeiture Act.

(g) "Forfeiture proceeding" means a hearing or trial in which the court or jury determines whether the subject property shall be forfeited.

(h) "Claimant" means any party who has proprietary interest in property subject to forfeiture and has standing to challenge such forfeiture, including owners, registered owners, bona fide lienholders, and titleholders.

History.--ss. 1, 2, ch. 74-385; s. 1, ch. 80-68; s. 1, ch. 89-148; s. 1, ch. 92-54; s. 1, ch. 95-265; s. 31, ch. 96-247.

Note.--Former s. 943.41.

SEARCH AND INSPECTION WARRANTS

933.02 Grounds for issuance of search warrant.--

Upon proper affidavits being made a search warrant may be issued under the provisions of this chapter upon any of the following grounds:

- (1) When the property shall have been stolen or embezzled in violation of law;
- (2) When any property shall have been used:
 - (a) As a means to commit any crime,
 - (b) In connection with gambling, gambling implements and appliances, or
 - (c) In violation of s. 847.011 or other laws in reference to obscene prints and literature;
- (3) When any property constitutes evidence relevant to proving that a felony has been committed;
- (4) When any property is being held or possessed:

(a) In violation of any of the laws prohibiting the manufacture, sale, and transportation of intoxicating liquors, or

(b) In violation of the fish and game laws, or

(c) In violation of the laws relative to food and drug;

(5) When the laws in relation to cruelty to animals have been or are violated in any particular building or place, but

no search shall be made in such building or place after sunset, unless specially authorized by the officer issuing the

warrant upon satisfactory cause shown; in which case such property may be taken on the warrant so issued from any

house or place in which it is concealed, or from any vehicle, aircraft, or watercraft in which it may be found, or from

the possession of any person by whom it shall have been used in the commission of any offense or from any person in

whose possession it may be.

The provisions of this section shall apply also to any papers or documents used as a means of or in aid of the

commission of any offense against the laws of the state.

History.--s. 16, sub-ch. 8, ch. 1637, 1868; s. 6, ch. 3921, 1889; RS 3007, 3008; GS 4083, 4084; RGS 6187, 6188; s. 4, ch. 9321, 1923;

CGL 8501, 8502, 8506; s. 2, ch. 74-318; s. 1, ch. 77-174.

933.14 Return of property taken under search warrant.--

(1) If it appears to the magistrate or judge before whom the warrant is returned that the property or papers taken

are not the same as that described in the warrant, or that there is no probable cause for believing the existence of the

grounds upon which the warrant was issued, or if it appears to the magistrate before whom any property is returned

that the property was secured by an "unreasonable" search, the judge or magistrate may order a return of the

property taken; provided, however, that in no instance shall contraband such as slot machines, gambling tables,

lottery tickets, tally sheets, rundown sheets, or other gambling devices, paraphernalia and equipment, or narcotic

drugs, obscene prints and literature be returned to anyone claiming an interest therein, it being the specific intent of the

Legislature that no one has any property rights subject to be protected by any constitutional provision in such

contraband; provided, further, that the claimant of said contraband may upon sworn petition and proof submitted by

him or her in the circuit court of the county where seized, show that said contraband articles so seized were held,

used or possessed in a lawful manner, for a lawful purpose, and in a lawful place, the burden of proof in all cases

being upon the claimant. The sworn affidavit or complaint upon which the search warrant was issued or the testimony

of the officers showing probable cause to search without a warrant or incident to a legal arrest, and the finding of such slot machines, gambling tables, lottery tickets, tally sheets, rundown sheets, scratch sheets, or other gambling devices, paraphernalia, and equipment, including money used in gambling or in furtherance of gambling, or narcotic drugs, obscene prints and literature, or any of them, shall constitute prima facie evidence of the illegal possession of such contraband and the burden shall be upon the claimant for the return thereof, to show that such contraband was lawfully acquired, possessed, held, and used.

(2) No intoxicating liquor seized on any warrant from any place other than a private dwelling house shall be returned, but the same may be held for such other and further proceedings which may arise upon a trial of the cause, unless it shall appear by the sworn petition of the claimant and proof submitted by him or her that said liquors so seized were held, used or possessed in a lawful manner, and in lawful place, or by a permit from the proper federal or state authority, the burden of proof in all cases being upon the claimant. The sworn affidavit or complaint upon which the search warrant was issued and the finding of such intoxicating liquor shall constitute prima facie evidence of the illegal possession of such liquor, and the burden shall be upon the claimant for the return thereof, to show that such liquor was lawfully acquired, possessed, held, and used.

(3) No pistol or firearm taken by any officer with a search warrant or without a search warrant upon a view by the officer of a breach of the peace shall be returned except pursuant to an order of a circuit judge or a county court judge.

(4) If no cause is shown for the return of any property seized or taken under a search warrant, the judge or magistrate shall order that the same be impounded for use as evidence at any trial of any criminal or penal cause growing out of the having or possession of said property, but perishable property held or possessed in violation of law may be sold where the same is not prohibited, as may be directed by the court, or returned to the person from whom taken. The judge or magistrate to whom said search warrant is returned shall file the same with the inventory and sworn return in the proper office, and if the original affidavit and proofs upon which the warrant was issued are in his or her possession, he or she shall apply to the officer having the same and the officer shall transmit and deliver all of the papers, proofs, and certificates to the proper office where the proceedings are lodged.

History.--s. 14, ch. 9321, 1923; CGL 8516; s. 1, ch. 29676, 1955; s. 42, ch. 73-334; s. 1573, ch. 97-102.

933.18 When warrant may be issued for search of private dwelling.--

No search warrant shall issue under

this chapter or under any other law of this state to search any private dwelling occupied as such unless:

- (1) It is being used for the unlawful sale, possession, or manufacture of intoxicating liquor;
- (2) Stolen or embezzled property is contained therein;
- (3) It is being used to carry on gambling;
- (4) It is being used to perpetrate frauds and swindles;
- (5) The law relating to narcotics or drug abuse is being violated therein;
- (6) A weapon, instrumentality, or means by which a felony has been committed, or evidence relevant to proving said felony has been committed, is contained therein;
- (7) One or more of the following misdemeanor child abuse offenses is being committed there:
 - 1(a) Interference with custody, in violation of s. 787.03.
 - (b) Commission of an unnatural and lascivious act with a child, in violation of s. 800.02.
 - (c) Exposure of sexual organs to a child, in violation of s. 800.03.
- (8) It is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boardinghouse, or lodginghouse;
- (9) It is being used for the unlawful sale, possession, or purchase of wildlife, saltwater products, or freshwater fish being unlawfully kept therein; or
- (10) The laws in relation to cruelty to animals have been or are being violated therein, except that no search pursuant to such a warrant shall be made in any private dwelling after sunset and before sunrise unless specially authorized by the judge issuing the warrant, upon a showing of probable cause. Property relating to the violation of such laws may be taken on a warrant so issued from any private dwelling in which it is concealed or from the possession of any person therein by whom it shall have been used in the commission of such offense or from any person therein in whose possession it may be.

If, during a search pursuant to a warrant issued under this section, a child is discovered and appears to be in imminent danger, the law enforcement officer conducting such search may remove the child from the private dwelling and take the child into protective custody pursuant to chapter 39. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodginghouse. No warrant shall be issued for the search of any private dwelling under any of the conditions hereinabove mentioned except on sworn proof by affidavit of some creditable witness that he or she has

reason to believe that one of said conditions exists, which affidavit shall set forth the facts on which such reason for belief is based.

History.--s. 19, ch. 9321, 1923; s. 2, ch. 10273, 1925; CGL 8518; s. 1, ch. 57-418; s. 1, ch. 67-348; s. 1, ch. 69-18; s. 1, ch. 74-318; s. 1, ch. 78-126; s. 1, ch. 78-345; s. 1, ch. 86-93; s. 1, ch. 88-298; s. 59, ch. 88-381; s. 4, ch. 93-4; s. 1576, ch. 97-102; s. 161, ch. 98-403.

1Note.--Section 787.03, as amended by s. 1, ch. 88-244, provides that interference with custody is a felony of the third degree.

CHAPTER 934. SECURITY OF COMMUNICATIONS

934.07 Authorization for interception of wire, oral, or electronic communications.--

The Governor, the

Attorney General, the statewide prosecutor, or any state attorney may authorize an application to a judge of

competent jurisdiction for, and such judge may grant in conformity with ss. 934.03-934.09, an order authorizing or

approving the interception of wire, oral, or electronic communications by the Department of Law Enforcement or any

law enforcement agency as defined in s. 934.02 having responsibility for the investigation of the offense as to which

the application is made when such interception may provide or has provided evidence of the commission of the

offense of murder, kidnapping, arson, gambling, robbery, burglary, theft, dealing in stolen property, prostitution,

criminal usury, bribery, or extortion; any violation of chapter 893; any violation of the provisions of the Florida

Anti-Fencing Act; any violation of chapter 895; any violation of chapter 896; any violation of chapter 815; any

violation of chapter 847; any violation of s. 827.071; any violation of s. 944.40; or any conspiracy to commit any

violation of the laws of this state relating to the crimes specifically enumerated above.

History.--s. 7, ch. 69-17; ss. 11, 20, 35, ch. 69-106; s. 42, ch. 73-334; s. 1, ch. 77-174; s. 15, ch. 77-342; s. 33, ch. 79-8; s. 5, ch. 88-184;

s. 5, ch. 89-269; s. 14, ch. 91-33.