

## CHAPTER 98-190

### Committee Substitute for Senate Bill No. 440

An act relating to pari-mutuel wagering; amending s. 550.01215, F.S.; revising language with respect to periods of operation for certain permitholders; amending s. 550.0951, F.S.; providing that no admission tax shall be imposed on any free passes or complimentary cards for admission to pari-mutuel events; reviving, reenacting, and amending s. 550.09515, F.S., relating to thoroughbred horse taxes; revising the tax on handle and additional purse payment requirements for certain guest thoroughbred permitholders; amending s. 550.09515, F.S.; amending thoroughbred horse taxes; repealing increased tax requirements for certain thoroughbred permitholders operating in multiple tax periods; deleting obsolete language; amending s. 550.2625, F.S.; revising eligibility requirements with respect to stallion awards; reenacting and amending s. 550.2625(2), F.S.; revising horseracing purse payment requirements and purse accounts used for Florida Owners' Awards; amending s. 550.5251, F.S.; revising the hours of operation for thoroughbred racing permitholders; amending s. 550.615, F.S.; providing for the retention of tax revenues by a thoroughbred permitholder conducting specified intertrack wagering; providing for certain purse payments; repealing subsection (11) of s. 550.615, F.S.; requiring certain intertrack wagering broadcasts; amending s. 550.6305, F.S.; revising language with respect to intertrack wagering and guest track payments; creating s. 550.6308, F.S.; providing for a limited intertrack wagering license; creating s. 550.72, F.S.; directing a study of the feasibility of state or municipal ownership of Hialeah Race Course; providing an appropriation; repealing s. 550.2425, F.S., relating to a racing laboratory at horse racetrack facilities; repealing s. 550.655, F.S., relating to backside medical and health benefits; providing effective dates.

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

Section 1. Subsections (1) and (5) of section 550.01215, Florida Statutes, are amended to read:

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. ~~between the hours of 7 p.m. and 10 p.m.~~, the dates for all performances which the permitholder intends to conduct. Permitholders shall be entitled to amend their applications through February 28.

(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.

Section 2. Subsection (2) of section 550.0951, F.S., is amended to read:

550.0951 Payment of daily license fee and taxes.—

(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 alai 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. An admission tax is imposed on any free passes or complimentary cards issued to guests by permitholders in an amount equal to the tax imposed on the regular and usual admission charge for entrance to the permitholder's facility and grandstand area.~~

(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.

Section 3. Notwithstanding subsection (5) of section 550.09515, Florida Statutes, as created by section 1 of chapter 93-123, Laws of Florida, and notwithstanding section 26 of chapter 96-364, Laws of Florida, section 550.09515, Florida Statutes, shall not stand repealed on July 1, 1998, but is revived, reenacted, and amended and subsection (6) is added to said section to read:

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)(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 ~~2.25~~ percent of handle for performances conducted during the period beginning on January 3 and ending March 16; .20 ~~.70~~ percent of handle for performances conducted during the period beginning March 17 and ending May 22; and 1.25 ~~1.5~~ 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 s. 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.

Section 4. Effective July 1, 2001, paragraph (a) of subsection (2) of section 550.09515, Florida Statutes, is amended to read:

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

(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 ~~2.0~~ percent of handle for performances conducted during the period beginning on January 3 and ending March 16; .70 ~~.20~~ percent of handle for performances conducted during the period beginning March 17 and ending May 22; and 1.5 ~~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.~~

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.

~~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 s. 550.525(2), amendments may be filed to the racing dates up to May 1, 1993.~~

Section 5. Paragraph (d) of subsection (3) of section 550.2625, Florida Statutes, is amended to read:

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

(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:

(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 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 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.

Section 6. Notwithstanding section 26 of chapter 96-364, Laws of Florida, subsection (2) of section 550.2625, Florida Statutes, shall not stand repealed on July 1, 1998, but is revived, reenacted, and amended to read:

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

(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 ~~.375~~ 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 ~~.6~~ 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 subsection.

Section 7. Subsection (4) of section 550.5251, Florida Statutes, is amended to read:

550.5251 Florida thoroughbred racing; certain permits; operating days.—



(4) A thoroughbred racing permitholder may not begin any race later than 7 p.m. However, any thoroughbred permitholder 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 between the hours of 7 p.m. and 10 p.m.~~ on any day during which the permitholder conducts live races. However, such permitholder may not engage in both operating a cardroom and receiving or rebroadcasting out-of-state races after 7 p.m. Permitholders 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 ~~s. 550.01215.~~

Section 8. Subsection (11) of section 550.615, Florida Statutes, is amended to read:

550.615 Intertrack wagering.—

(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.

Section 9. Effective July 1, 2001, subsection (11) of s. 550.615, Florida Statutes, is repealed.

Section 10. Paragraphs (a) and (g) of subsection (9) of section 550.6305, Florida Statutes, are amended to read:

550.6305 Intertrack wagering; guest track payments; accounting rules.—

(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, ~~and breeders’ awards paid to the Florida Thoroughbred Breeders’ Association and the Florida Standardbred Breed-~~

ers 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).

(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 ~~a thoroughbred permitholder located in a county where there are only three permits, one for thoroughbred, one for greyhound, and one for jai alai.~~

Section 11. Section 550.6308, Florida Statutes, is created to read:

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.

Section 12. Section 550.72, Florida Statutes, is created to read:

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 (b) of subsection (2) 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.

Section 13. Sections 550.2425 and 550.655, Florida Statutes, are repealed.

Section 14. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Became a law without the Governor's approval May 24, 1998.

Filed in Office Secretary of State May 22, 1998.