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Committee on Regulated Industries

Senator Dennis L. Jones, D.C., Chair

DEREGULATION OF INTERTRACK AND SIMULCAST WAGERING AT FLORIDA'S PARI-MUTUEL FACILITIES

SUMMARY

The pari-mutuel industry consists of 18 greyhound permits operating at 16 greyhound tracks, seven jai alai permits operating at five frontons, four thoroughbred permits operating at three thoroughbred tracks, and one harness permit operating at one harness track.

Persons who attend pari-mutuel events can wager on live races conducted at the facility or on races conducted at other racetracks in Florida or out-of-state. Wagers on live races at other tracks are called intertrack and simulcast wagering. "Host tracks" (conducting a live race or rebroadcasting a live simulcast race) transmit signals to a "guest track" and the guest track takes wagers on that signal.

Since its inception, intertrack and simulcast wagering has become an increasingly important share of the total amount of the handle. For FY 2003-04, intertrack wagering accounted for \$992,252,664 or 69 percent of the \$1,439,870,758 total handle wagered on pari-mutuels during that year. The live events accounted for only \$447,618,094 or 31 percent of the total handle.

Section 550.615, F.S., along with other sections of ch. 550, F.S., creates specific limitations on the exchange of intertrack and simulcast signals, including requirements to accept a certain number of races from the host track, and requirements for approval by other tracks and frontons within certain areas.

Broadcasts of horseraces to and from this state must also comply with the provisions of the federal Interstate Horseracing Act of 1978, 15 U.S.C. ss. 3001-3007. Because of the approval restrictions in this act, it appears that only seven tracks and frontons would be able to contract with an out-of-state horse track without getting approval from another operating track or fronton.

There are two recent appellate cases dealing with the simulcast issue. One is pending in the Florida Supreme Court with oral argument scheduled for November 3, 2005. The court will decide whether Florida law prohibits exclusive contracts for broadcasting out-of-state horseraces. In the other case, the Department of Business and Professional Regulation has appealed a lower court order that held s. 550.615(6), F.S., is an unconstitutional special law in violation of s. 10, Art. III of the Florida Constitution. This subsection prohibits the holder of a thoroughbred horse permit from engaging in intertrack wagering in an area of the state where there are at least three horse racing permits within 25 miles of each other. The First District Court of Appeal affirmed the lower court ruling that the statute was unconstitutional.

Deregulation would eliminate or modify some or all of the restrictions on broadcasting pari-mutuel races or games. Some of the pari-mutuel industry supports deregulation of simulcast and intertrack wagering but with specific caveats to that support. Several other industry interests oppose the concept and are concerned about its impact on revenues, purses, and breeders' awards. Most of the industry notes that the statutory scheme established over the years balances many competing interests. All the industry representatives recommended that the Legislature conduct workshops on the deregulation issue.

Staff recommends that the Committee on Regulated Industries conduct a series of workshops on the issues raised by the deregulation of intertrack and simulcast wagering in Florida and receive testimony from industry representatives and other interested persons.

BACKGROUND

The regulation of the pari-mutuel industry is governed by ch. 550, F.S. Regulation is administered by the Division of Pari-Mutuel Wagering (division) within the

Department of Business and Professional Regulation (DBPR or department). The pari-mutuel industry consists of thoroughbred racing, harness racing, greyhound racing, jai alai, and cardrooms located at pari-mutuel facilities. According to the division, there are 31 active permits operating at 26 pari-mutuel facilities. This consists of 18 greyhound permits operating at 16 greyhound tracks, seven jai alai permits operating at five frontons, four thoroughbred permits operating at three thoroughbred tracks,¹ and one harness permit operating at one harness track.

Persons who attend pari-mutuel events can wager on live races at the facility or live races being conducted at other racetracks in Florida or out-of-state. The wagers on races being conducted at other racetracks fall into two categories, wagers on live races occurring at other Florida tracks and on live races at tracks outside the state.

Wagers on live races at other tracks are divided into categories called intertrack and simulcast wagering under the Florida Statutes.² Intertrack and simulcast wagering interactions occur at guest and host tracks. A “host track” transmits signals to a “guest track” and the guest track takes wagers on that signal. Host tracks are tracks or frontons that conduct a live or simulcast race or game that is the subject of an intertrack wager.³ A guest track is a track or fronton receiving or accepting an intertrack wager.⁴ All costs of racing transmissions of the broadcasts are the guest track’s responsibility, and all costs of sending the broadcast are the host track’s responsibility.⁵ The host track must commingle the handle received from the guest tracks and the tax is assessed on the handle at the host track.

Deregulations would modify or eliminate the various restrictions on the broadcast of intertrack and simulcast signals. Simulcasting may only be accepted between

facilities with the same class of pari-mutuel wagering permit,⁶ e.g., horseracing permitholders may only receive and broadcast signals from other horseracing permitholders. However, simulcasting also includes the rebroadcast of the signal to in-state permitholders and certain exceptions apply.⁷ Simulcast signals must be made available to all permitholders eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, F.S.⁸ Horse tracks licensed under ch. 550, F.S., may only receive broadcasts of horseraces conducted outside the state while the track is racing live.⁹ All broadcasts of horseraces sent to locations outside of Florida or received from locations outside Florida must comply with the provisions of the Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss. 3001, et seq.¹⁰

Much of Florida’s current law on intertrack and simulcast wagering came from legislation in 1996 that created a scheme that, according to some pari-mutuel representatives, sought to balance the pari-mutuel industry’s competing objectives. The result is a complex set of regulations filled with restrictions that has resulted in continued litigation over the years.

METHODOLOGY

In preparation of this report, committee staff met with or communicated with representatives of the DBPR and the pari-mutuel industry, reviewed and analyzed the intertrack and simulcasts provisions of ch. 550, F.S., and the Interstate Horseracing Act of 1978, and reviewed the current litigation that is challenging the intertrack and simulcast provisions.

¹ There were five thoroughbred pari-mutuel permits. However, the revocation of Hialeah Park’s pari-mutuel wagering thoroughbred racing permit was affirmed July 13, 2005. *Hialeah Racing Association, LLC v. Department of Business and Professional Regulation, Division of Pari-mutuel Wagering*, 30 Fla. L. Weekly D1699 (Fla. 3rd DCA July 13, 2005).

² Section 550.002(17), F.S., defines intertrack wager as a wager “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.”

³ Section 550.002(16), F.S.

⁴ Section 550.002(12), F.S.

⁵ Section 550.615(10), F.S.

⁶ Section 550.3551, F.S.

⁷ Section 550.615, F.S.

⁸ Section 550.6305(9)(g)1., F.S.

⁹ Section 550.3551(3), F.S., provides that “[a]ny 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 meet is defined by s. 550.002(20), F.S., as the “conduct of live racing or jai alai for any stake, purse, prize, or premium.” (emphasis added).

¹⁰ See s. 550.3551(2)(a) and (3)(a), F.S.

FINDINGS

Legislative History

Simulcast wagering was originally enacted in 1987 in a limited area.¹¹ Simulcast and intertrack wagering was authorized in all pari-mutuel permitholders in 1990.¹² Prior to 1992, pari-mutuel wagering was divided between two chapters of the Florida Statutes. Chapter 550, F.S., dealt with horseracing and dogracing and ch. 551, F.S., dealt with jai alai frontons. Most, but not all, of these chapters were repealed in 1992.¹³ Intertrack and simulcast wagering were enacted in ch. 92-348, L.O.F., as part of the enactment of a revised ch. 550, F.S.¹⁴

In 1996, ch. 96-364, L.O.F., affected simulcasting in several ways. It amended s. 550.615(6), F.S., to allow simulcasting for all permitholders, except for greyhounds. It authorized greyhound permitholders in Dade and Broward counties to conduct simulcasting. It required that, in order to receive simulcasting, all permitholders, except for harness permitholders, must be conducting live performances. Previously, consent was required in the South Florida area before any permitholder in the area could engage in intertrack wagering.

The act also created s. 550.615(9), F.S., which provides that in any area of the state where there are only four active permits, one for thoroughbred horse racing, two for greyhound racing, and one for jai alai games, located in two contiguous counties (Dade and Broward counties), no intertrack wager could be accepted on the same class of live races or games without the written consent of the operating permitholder conducting the same class of live races or games if the guest track is within the market area of the permitholder. (This provision affects Calder and Gulfstream thoroughbred tracks.)

It created s. 550.6305(9)(c), F.S., to provide that the statutory distribution of net proceeds to the host track, host track purses, and guest track may be amended by contract among the host and guest permitholders and the horsemen's association at the host track. It also created s. 550.6305(9)(f), F.S., to provide that a permitholder, other than a harness permitholder, must be conducting a live race meet in order to receive or rebroadcast an out-of-state signal.

Finally, the act also created s. 550.6305(9)(g), F.S., to provide that if a thoroughbred permitholder accepts wagers on an out-of-state simulcast signal, it must make the signal available to any eligible permitholder, provided that no thoroughbred permitholder is required to rebroadcast the signal to any permitholder if the average gross daily returns to the host are less than \$100 per performance based on a 30-day period.

In 1998, ch. 98-190, L.O.F., amended s. 550.01215(1) and (5), F.S., to allow a thoroughbred permitholder to receive and rebroadcast out-of-state races after 7 p.m. rather than between the hours of 7 p.m. and 10 p.m. This act amended s. 550.6305(9)(g), F.S., to place conditions on the receipt of rebroadcasts of thoroughbred simulcast signals by making the receipt of such signals subject to the provisions of s. 550.615(4), F.S. This subsection prohibits a permitholder from accepting intertrack wagers on the same class of race or game as is being conducted by a permitholder of the same type within a market area without written permission by that operating permitholder. It further requires that, as a condition of accepting such signal, a guest track must accept intertrack wagers on all live races being conducted by all thoroughbred permitholders that are conducting live races.

In 2000, ch. 2000-354, L.O.F., created s. 550.615(8), F.S., to authorize any greyhound track located in one of three contiguous counties where there are only three permitholders, all of which are greyhound permitholders (the Jacksonville market area), and which leases another greyhound track in the same market area for purposes of conducting live racing to also receive intertrack wagering at the leased facility when it is conducting its live races or games at the leased facility.

¹¹ Chapter 87-38, L.O.F., limited wagering to any county that had two quarter horse permits that were not racing as of January 1, 1987 and one Jai Alai permit. It was limited to one qualifying county and could not be located at an existing pari-mutuel facility.

¹² Chapter 90-352, L.O.F.

¹³ Chapter 91-197, L.O.F., repealed these provisions effective July 1, 1992.

¹⁴ Chapter 550, F.S. and ch. 551, F.S., were repealed and the Legislature enacted new provisions of ch. 550, F.S., at a Special Session in December 1992 that combined pari-mutuel regulation under one chapter.

Intertrack and Simulcast Wagering

Since its inception, intertrack and simulcast wagering has become an increasingly important share of the total amount of the handle.¹⁵

For the FY 2003-04, intertrack wagering accounted for \$992,252,664 or 69 percent of the \$1,439,870,758 total handle wagered on pari-mutuels during that year. The live events accounted for \$447,618,094 for the same year or 31 percent of the total handle.¹⁶ Intertrack wagering accounted for \$275,954,247 or 56 percent of the \$491,924,053 total handle wagering on greyhound racing. For thoroughbred racing, intertrack wagering accounted for \$587,856,684 or 77.5 percent of the \$758,928,837 total handle. The intertrack wagering for harness racing accounted for 87.6 percent or \$83,388,783 of the \$95,129,287 total handle. Jai Alai did not have any intertrack wagering.

Permitholders are required to pay purses on intertrack and simulcast greyhound races.¹⁷ Purses and breeders' awards are also required to be paid on thoroughbred intertrack and simulcast races.¹⁸

Florida's Regulation of the Intertrack Signal

In addition to the restrictions noted in the Background section above, s. 550.615, F.S., creates specific limitations on the exchange of intertrack signals, which include the following limitations.

The track or fronton must be licensed and must have conducted a full schedule of live racing in the preceding year to receive broadcasts and accept wagers.¹⁹

Host tracks may require a guest track within 25 miles of another permitholder to receive, in any week, at least

60 percent of the host track's live races that the host track is making available on the days that the guest track is operating live races or games.²⁰

A host track may also require, when the guest track is not operating live and is within 25 miles of another permitholder, that the guest track accept 60 percent of the host track's live races that it is making available in that week. Permitholders may not attempt to restrain a permitholder from sending or receiving intertrack wagering broadcasts.²¹ These provisions are applicable to Dade, Broward, Pinellas, Hillsborough, Duval, Volusia, Clay, and Seminole Counties.

Guest tracks within the market area²² of the operating permitholder must receive consent from the host track to receive the same class signal.²³

Permitholders within the market area of the host track must have the consent of the host track to take an intertrack wager. For example, Tampa Greyhound Track (Associated Outdoor Club, Inc.) could not accept wagers on races from Tampa Bay Downs, Inc., (TBD) without TBD's permission.²⁴

When there are three or more horserace permitholders within 25 miles of each other (this is currently applicable to Dade and Broward Counties) a greyhound or jai alai 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.²⁵

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 when no jai alai permitholder located within its market area is conducting live performances.²⁶

Greyhound or jai alai permitholders may receive broadcasts of, and accept wagers on, any permitholder as long as a permitholder, other than the host track, is

¹⁵ "Handle" is defined in s. 550.002(13), F.S., as the aggregate contributions to the pari-mutuel pools. A pari-mutuel pool is the total amount wagered on a race or game for a single possible result. See s. 550.002(24), F.S.

¹⁶ 73rd Annual Report, Fiscal Year 2003-2004, Division of Pari-mutuel Wagering, Department of Business and Professional Regulation (December 1, 2004).

¹⁷ See, for example, s. 550.09514(2)(c), F.S., for greyhound permitholders.

¹⁸ See, for example, ss. 550.26165(1) and 550.2625(2)(e), F.S. There are other sections of ch. 550, F.S., which provide for payment of purses and taxes from intertrack and simulcast wagering. Harness racing and quarterhorse racing are also included.

¹⁹ Section 550.615(2), F.S.

²⁰ Section 550.615(3), F.S.

²¹ *Id.*

²² Section 550.002(13), F.S., defines a market area as an area within 25 miles of a permitholder's track or fronton.

²³ Section 550.615(4), F.S.

²⁴ Section 550.615(5), F.S.

²⁵ Section 550.615(6), F.S. The constitutionality of this section is being considered before the First DCA. See Litigation section of this report *supra*.

²⁶ *Id.*

not operating a contemporaneous live performance within the market area.²⁷

In any county of the state where there are only two pari-mutuel permitholders, a permitholder is required to receive the written consent of the other permitholder if it wishes to conduct intertrack wagering and is not conducting live races or games. If neither permitholder is conducting live races or games, intertrack wagers may be accepted on horseraces, games, or both.²⁸ This is applicable to Volusia and Palm Beach counties. The jai alai permits are not active in these counties.

In any three contiguous counties where there are only three greyhound permitholders, a permitholder who leases a facility of another permitholder to conduct its live race meet may conduct intertrack wagering throughout the year, including the time the live meet is being conducted at the leased facility. For example, in North Florida, St. Johns Greyhound (a.k.a. Bayard Raceways), located in St. Johns County, does not run live races but leases its meet out to the Orange Park Kennel Club, Inc., in Clay County. By doing so, Bayard Raceways is able to receive intertrack wagering at its facility.²⁹

In any two contiguous counties where there are four active permitholders consisting of one for thoroughbred, two for greyhound, and one for jai alai, 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. This provision originally applied to Pinellas and Hillsborough counties. The fronton in Tampa (Florida Gaming Centers) currently has an inactive permit.³⁰ However, the requirement in s. 550.615(4), F.S., for the written consent remains applicable.

Interstate Horseracing Act

Interstate broadcasts of horseraces must also comply with the provisions of the Interstate Horseracing Act of 1978 (IHA).³¹ The IHA requires that an interstate off-track wager³² may be accepted by an off-track betting

system³³ only if consent is obtained from the host racing association, the host racing commission, and the off-track racing commission. Once this consent is obtained, the in-state track receiving the transmission must get the approval of operating tracks within 60 miles before the site can accept the intertrack wagers on the out-of-state races.

Currently the only pari-mutuel facilities that would be able to contract with an out-of-state horse track without getting approval from another operating track would be Naples-Fort Meyers (Bonita Greyhound Track), Ocala Jai Alai, Pensacola Greyhound Track, and Ebro Greyhound Track. The three tracks in the Jacksonville area (Bayard Raceway, Orange Park Kennel Club and Jacksonville Kennel Club) would also be able to avoid this provision since they are owned by the same company.

Litigation

In the case of *Gulfstream Park Racing Association v. Tampa Bay Downs, Inc.*, 294 F.Supp2d 1291 (M.D. Fla. 2003), Gulfstream sought a declaratory judgment and injunctive relief against Tampa Bay Downs (TBD). Gulfstream alleged that TBD could not receive the simulcast of races from several out-of-state venues. Gulfstream had previously entered into simulcast agreements with these out-of-state pari-mutuel facilities and contended that it had acquired the exclusive rights to broadcast races pursuant to the Copyright Act.³⁴

After the state became a party to the lawsuit by order of the court, Tampa Bay Downs requested that the division issue a declaratory statement regarding such exclusive agreements. The division issued the statement and found that exclusive dissemination agreements for simulcasting that prohibit or operate to restrain re-broadcast of a simulcast signal violated ss. 550.615(3) and 550.6305(9)(g)1, F.S. and rule 61D-9.001, F.A.C.

Gulfstream then sought a judgment from the court that the division's declaratory statement conflicted with and was preempted by the Copyright Act.

horse race taking place in another State and includes pari-mutuel wagers where lawful in each State involved . . .” 15 U.S.C. s 3002(3).

³³“Off-track betting system means as any group which is in the business of accepting wagers on horseraces at locations other than the place where the horserace is run, which business is conducted by the State or licensed or otherwise permitted by State law.” 15 U.S.C. s. 3001(7).

³⁴ 17 U.S.C. ss. 101 et seq.

²⁷ *Id.*

²⁸ Section 550.615(7), F.S.

²⁹ Section 550.615(8), F.S.

³⁰ Section 550.615(9), F.S.

³¹ 15 U.S.C. ss. 3001 et seq.

³²“Interstate off-track wager means a legal wager placed or accepted in one State with respect to the outcome of a

The court granted summary judgment to Tampa Bay Downs holding that ss. 550.615(3) and 550.6305(9)(g), F.S., and rule 61D-9.001, F.A.C., were not preempted by the Copyright Act, nor preempted by the Interstate Horseracing Act of 1978.

Gulfstream appealed to the Eleventh Circuit Court of Appeals. Finding that no Florida appellate court had decided a case that considered whether the Pari-Mutuel Wagering Act prohibited exclusive or restrictive simulcast agreements between an out-of-state host track and a Florida thoroughbred guest track, the Eleventh Circuit Court of Appeals certified the following question to the Florida Supreme Court:

Does the Florida Pari-mutuel Wagering Act prohibit an agreement between a Florida thoroughbred racetrack and an out-of-state racetrack that grants the Florida racetrack the exclusive right to disseminate the out-of-state tracks' simulcast signal to other Florida wagering sites permitted to receive them?³⁵

The case is pending in the Florida Supreme Court with oral argument scheduled for November 3, 2005.³⁶

In *Gulfstream Park Racing Association, Inc., PPI, Inc., d/b/a Pompano Park Racing, v. Department of Business and Professional Regulation and Hartman & Tyner, Inc., et al.*, No. 2002-CA-2971 (Fla. 2d Cir. Ct.), Gulfstream and Pompano Park Racing filed suit against the division challenging the implementation and constitutionality of s. 550.615(6), F.S. The suit was filed after the department filed administrative complaints against Gulfstream and Pompano Park alleging that they had violated s. 550.615(6), F.S., by exchanging intertrack wagering signals. The court entered a declaratory judgment declaring that s. 550.615(6), F.S., is an unconstitutional special law in violation of s. 10, Art. III of the Florida Constitution. The court held that it was a special law because the law was limited to one area of the state and no other area could meet the criteria established in statute, at the time of enactment or in the future. Two separate appeals were filed in the First District Court of Appeal by the parties. The cases were combined and the First District Court of Appeal affirmed the lower court decision and held that s. 550.615(6), F.S., was unconstitutional on "the ground that the act was not enacted according to the applicable procedures in Article III, Section 10 of

the Florida Constitution."³⁷ This decision has the potential of impacting other provisions of ch. 550, F.S.

Perspectives on Deregulation of Intertrack and Simulcast Wagering

The department and the various pari-mutuel interests were surveyed to ascertain their opinion on the possibility of deregulating the various restrictions on intertrack and simulcast wagering in ch. 550, F.S. The following is a summary of their comments.

The Department of Business and Professional Regulation

The department stated that most of the provisions in ch. 550, F.S., have been adopted with the support or agreement of one or more of the pari-mutuel stakeholders which include the permitholders and various associations from the greyhound, horse, and jai alai industries. The department stated that the industry perspective regarding proposed changes would provide a more encompassing perspective than the department. The Department did observe that changes in existing simulcast and intertrack laws in ch. 550, F.S., may impact the taxing and purse structure which is established around the different types of racing and games (live, simulcast and intertrack). As noted above, the current taxes on intertrack and the rebroadcast of simulcast races are collected from the Florida host track from the handle accumulated from the Florida guest tracks.

The Association of Florida Greyhound Tracks

The greyhound association representative noted, as a preface to their comments, any review of the possible deregulation of intertrack and simulcast wagering, should consider that Florida's statutory scheme has been established over many years and has balanced many divergent interests.

Receipt of Out-of-State Simulcasts

The greyhound association representative stated that the requirement that simulcast broadcasts of races be accepted only by the same class of permitholder as the races being conducted is unique to Florida and has created a statutory scheme that requires that out-of-state

³⁵ *Gulfstream Park Racing Association, Inc. v. Tampa Bay Downs, Inc.*, 399 F. 3d 1276 (11th Cir., 2005)

³⁶ *Gulfstream Park Racing Association, Inc. v. Tampa Bay Downs, Inc.*, No. SC05-251 (Fla.).

³⁷ *Hartman & Tyner, et al. v. Gulfstream Park Racing Association, Inc.*, No. 1D04-3819 and *Department of Business and Professional Regulation v. Gulfstream Park Racing Association, Inc.*, No. 1D04-4094 (Fla. 1st DCA August 31, 2005).

thoroughbred horse races be received by non-thoroughbred tracks only through an in-state thoroughbred track.

The association indicated that s. 550.6305(9), F.S., requires that the non-thoroughbred Florida track or fronton give the Florida thoroughbred track from 55 to 67 percent of its net proceeds on wagers on such out-of-state thoroughbred races. The association stated that there is no justification for this requirement and that deregulation would permit non-thoroughbred tracks to directly contract with the out-of-state track for receipt of the races. In doing so, this would promote competition and lessen the costs of receiving the races and benefit the betting public.

Intrastate v. Interstate Simulcast Charges

The association also noted that under the intertrack wagering statutes there is a significant and unjustified disparity between the charges paid by an out-of-state track for the signal of the races and those paid by in-state tracks receiving the signals of the same races.

The association further stated that a Florida thoroughbred track typically charges an out-of-state track three to four percent of the amount wagered at the out-of-state track as its charge or cost for sending the race. In-state, however, a Florida track receiving the intertrack wagering broadcast from a Florida thoroughbred race, is statutorily required under s. 550.6305(1), F.S., to be paid 7 percent of the amount wagered at such guest site on the race.

Exclusive Contracts

The association stated that deregulation should require that, if any out-of-state tracks send its races into Florida, all Florida permitholders should be able to receive the signal.

Tax Rates

The association also stated that no justification exists for the disparity in tax rates for simulcast and intertrack wagers under ss. 550.0951(3)(c)1. and 550.09515(5), F.S.³⁸

Statutory Requirements Concerning Purses and Shares

The association stated that deregulation would render the numerous and complex pari-mutuel statutes governing computation of purses and shares of wagering revenues unnecessary and enable parties to

enter into an appropriate contractual arrangement for purses, guest track payments, and breeders' awards.

Florida Thoroughbred Breeders' and Owners' Association

Receipt of Out-of-State Simulcasts

The association representative stated that the current statutory schemes which require that a thoroughbred race broadcast must come to a Florida thoroughbred track before being rebroadcast to in-state dog tracks, horse tracks and jai alai frontons, make sense.

The association stated that allowing a thoroughbred signal to be sent directly to a non-thoroughbred permitholder would reduce the funds available to make payments for thoroughbred purses and breeders' awards. Provisions to preserve the same amount of funding would be necessary for the association to support the change.

Interstate vs. Interstate Simulcast Charges

The association stated that a thoroughbred host track, the horsemen, and the Florida Thoroughbred Breeders' and Owners' Association should be able to set the price for interstate and interstate simulcast charges.

Exclusive Contracts

The association stated that Florida thoroughbred tracks should control thoroughbred signals from out-of-state but the signals should be made available to all permitholders in the state outside of a 25-mile area around each track.

Statutory Requirements concerning Purses and Breeders' Awards

The association stated that if deregulation occurs, certain permitholders will not pay competitive purses and breeders' awards without statutory requirements.

Recommendation

The association recommended that before legislation to change this complicated and contentious area of ch. 550, F.S., is considered, three informal workshops be held to determine if a consensus can be reached among the industry representatives and thus reduce the amount of time spent on the issues in committee during session.

Calder Race Course, Inc., and Tropical Park, Inc.

The Calder representative prefaced his opinions on possible deregulation of simulcast and intertrack

³⁸ These sections have different tax rates for intertrack wagering based on the type of pari-mutuel industry.

wagering by stating that the intertrack wagering statutory scheme was established in 1989, and was enhanced in 1996. The legislation of 1996 was an attempt to delicately balance the competing objectives and concerns of all the pari-mutuel industries. Calder also noted that the number and variety of pari-mutuel facilities in Florida is unique among its racing state peers.

Deregulation of intertrack and simulcast wagering

Calder indicated that until video lottery terminals and/or slot machines are available in all pari-mutuel facilities, a deregulation scheme will do nothing except upset the delicate balance that was crafted in the 1996 legislation. Calder further stated that it will create a legislative shift of wagering dollars which has been diminishing and may not have been scientifically or financially thought out.

Absent an economic study to determine the financial impact of deregulation on the various pari-mutuel permitholders, Calder stated that any change to the current simulcast law would be unwise.

Recommendation

Calder recommended that issues raised by the different industry representatives should be fully and completely discussed at appropriate workshops and that the committee should retain an economic expert in the pari-mutuel industry to determine the economic impact of the various suggested changes. Calder noted that the purse structure is important to the thoroughbred racing and breeding industry which has a large economic impact on Florida.

Gulfstream Park Racing Association, Inc.

The Gulfstream representative stated that the barriers which prevent Gulfstream and Calder from engaging in simulcasting in the same manner as other pari-mutuels in Florida and around the nation should be removed.

Specifically, Gulfstream stated, that Gulfstream and Calder should be permitted to broadcast interstate simulcasts and engage in intertrack wagering year-round as Tampa Bay Downs and every other pari-mutuel throughout Florida are authorized to do.

Gulfstream stated that it supports the deregulation of *simulcast* wagering consistent with the Interstate Horseracing Act, provided that the purses and breeder's awards from those simulcast proceeds are protected and maintained in order to preserve Florida's

rich heritage in owning, breeding, and racing horses in the state.

Gulfstream supports deregulation of in-state *intertrack* wagering, provided an incentive remained in the law to continue the existing broadcast/import of live in-state racing by the non-thoroughbred pari-mutuels so that the "in-state" simulcasts are offered to Florida patrons along with the "out-of-state" simulcasts. This incentive would support Florida's live racing and the horse breeding industry in Florida.

Recommendation

Gulfstream concurs with views expressed by other members of the pari-mutuel lobby regarding open debate and public workshops to discuss the deregulation of intertrack and simulcast wagering.

Tampa Bay Downs, Inc.

The Tampa Bay Downs representative stated that they do not support any changes to the laws dealing with intertrack and simulcast wagering.

Tampa Bay Downs stated that anytime changes are made to the laws regulating the operation of Florida's pari-mutuel industry, the results can drastically affect the profitability of various facilities in various ways. If for example, the law was changed allowing Tampa Bay Downs to take a signal for an out-of-state track directly while not running live races, it would increase their profit by \$800,000 per year, but at Calder's expense. Tampa Bay Downs noted that it is concerned about the fairness of any change in the law.

RECOMMENDATIONS

The provisions of the intertrack and simulcast statutes are so intertwined with the provisions concerning taxes, purses, and breeders' awards. Any change in one provision, has a "domino effect" and impacts the various pari-mutuel interests differently. The current system has evolved over time negotiations between the competing interests in the pari-mutuel industry and the Legislature. Any changes to the current regulatory scheme should be considered carefully.

Staff recommends that the Committee on Regulated Industries conduct a series of workshops on the issues raised by the deregulation of intertrack and simulcast wagering in Florida to receive testimony from industry representatives and other interested persons.