

1                                   A bill to be entitled  
2       An act relating to the prohibition of electronic  
3       gambling devices; creating the "Electronic Gambling  
4       Prohibition and Community Protection Act"; providing  
5       legislative findings and intent; amending s. 849.0935,  
6       F.S., relating to drawings by chance offered by  
7       nonprofit organizations; revising definitions;  
8       revising conditions for exceptions to prohibitions on  
9       lotteries; prohibiting the use of certain devices  
10      operated by drawing entrants; providing penalties;  
11      amending s. 849.094, F.S.; removing duties and  
12      responsibilities from the Department of Agriculture  
13      and Consumer Services; defining the term "department"  
14      as the Department of Business and Professional  
15      Regulation; revising definitions; prohibiting  
16      specified nonprofit organizations from operating a  
17      game promotion; providing conditions for exceptions to  
18      prohibitions on lotteries; prohibiting the use of  
19      certain devices operated by game promotion entrants;  
20      revising procedures for operation of a game promotion;  
21      authorizing the department to waive specified security  
22      requirements under certain conditions; providing  
23      duties and responsibilities of the department;  
24      authorizing the department to adopt rules; providing  
25      for construction; authorizing the department to bring  
26      an action to enjoin a game promotion that is in  
27      violation of specified provisions; providing  
28      penalties; providing that violations are deceptive and

29 | unfair trade practices; revising applicability  
 30 | provisions; amending s. 849.16, F.S.; defining the  
 31 | term "slot machine or device" for purposes of  
 32 | specified gambling provisions; providing a rebuttable  
 33 | presumption that a device is a prohibited slot  
 34 | machine; amending s. 895.02, F.S.; revising the  
 35 | definition of the term "racketeering activity" to  
 36 | include violations of specified provisions; providing  
 37 | for construction of the act; amending s. 721.111,  
 38 | F.S., relating to promotional offers; conforming  
 39 | cross-references; reenacting ss. 16.56(1)(a),  
 40 | 338.234(1), 655.50(3)(g), 849.19, 896.101(2)(g), and  
 41 | 905.34(3), F.S., relating to the Office of Statewide  
 42 | Prosecution, the Florida Turnpike, money laundering,  
 43 | seizure of property, the Florida Money Laundering Act,  
 44 | and a statewide grand jury, respectively, to  
 45 | incorporate changes made by the act in references  
 46 | thereto; providing an effective date.

47 |  
 48 | Be It Enacted by the Legislature of the State of Florida:

49 | Section 1. Short title

50 | This act may be cited as the "Electronic Gambling  
 51 | Prohibition and Community Protection Act."

52 | Section 2. Findings and Declarations of Necessity

53 | (1) The Legislature declares that s. 849.01 specifically  
 54 | prohibits the keeping or maintaining of a place for the purpose  
 55 | of gaming or gambling.

56       (2) The Legislature finds that s 849.0935 was enacted to  
 57 allow specified charitable or nonprofit organizations the  
 58 opportunity to raise funds to carry out their charitable or  
 59 nonprofit purpose by conducting a raffle for prizes by  
 60 eliminating the element of consideration and allowing the  
 61 receipt of voluntary donations or contributions and was not  
 62 intended to provide a vehicle for the establishment of places of  
 63 gambling or gaming.

64       (3) The Legislature finds that s. 849.094 was enacted to  
 65 regulate certain game promotions or sweepstakes conducted by  
 66 for-profit commercial entities on a limited and occasional basis  
 67 as an advertising and marketing tool and incidental to  
 68 substantial bona fide sales of consumer products or services  
 69 provided the element of consideration is removed as no purchase  
 70 necessary and provided they comply with the requirements and  
 71 rules specified by law and was not intended to provide a vehicle  
 72 for the establishment of places of ongoing gambling or gaming.

73       (4) Therefore, the Legislature finds that there is a  
 74 compelling state interest in addressing the deleterious effects  
 75 of the proliferation of electronic machines and devices used for  
 76 maintaining an ongoing place of gaming or gambling under the  
 77 pretext of conducting a charitable non-profit drawing by chance,  
 78 or a sweepstakes game promotion in connection with the sale of a  
 79 consumer product or service. The Legislature declares that it is  
 80 the intent of this act to prohibit the use of such devices and  
 81 nothing in this act may be construed to authorize the possession  
 82 or operation of any machine or device that is prohibited under  
 83 any other provision of law.

84 Section 3. Paragraph (a) of subsection (1) and subsections  
 85 (2), (4), and (7) of section 849.0935, Florida Statutes, are  
 86 amended to read:

87 849.0935 Charitable, nonprofit organizations; drawings by  
 88 chance; required disclosures; unlawful acts and practices;  
 89 penalties.—

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

91 (a) "Drawing by chance," ~~or~~ "drawing," or "raffle" means  
 92 an enterprise in which, from the entries submitted by the public  
 93 to the organization conducting the drawing, one or more entries  
 94 are selected by chance to win a prize. The term "drawing" does  
 95 not include those enterprises, commonly known as "game  
 96 promotions," as defined by s. 849.094, "matching," "instant  
 97 winner," or "preselected sweepstakes," which involve the  
 98 distribution of winning numbers, previously designated as such,  
 99 to the public.

100 (2) The provisions of s. 849.09 shall not be construed to  
 101 prohibit an organization ~~qualified under 26 U.S.C. s. 501(c)(3),~~  
 102 ~~(4), (7), (8), (10), or (19)~~ from conducting drawings by chance  
 103 pursuant to the authority granted by this section, provided the  
 104 organization has complied with all applicable provisions of  
 105 chapter 496 and this section. Authority to conduct drawings by  
 106 chance pursuant to this section does not provide an exemption to  
 107 s. 849.01, s. 849.15, or any other law.

108 (4) It is unlawful for any organization that ~~which~~,  
 109 pursuant to the authority granted by this section, promotes,  
 110 operates, or conducts a drawing by chance:

111 (a) To design, engage in, promote, or conduct any drawing

112 in which the winner is predetermined by means of matching,  
 113 instant win, or preselected sweepstakes or otherwise or in which  
 114 the selection of the winners is in any way rigged;

115 (b) To require an entry fee, donation, substantial  
 116 consideration, payment, proof of purchase, or contribution as a  
 117 condition of entering the drawing or of being selected to win a  
 118 prize. However, this provision shall not prohibit an  
 119 organization from suggesting a minimum donation or from  
 120 including a statement of such suggested minimum donation on any  
 121 printed material used ~~utilized~~ in connection with the  
 122 fundraising event or drawing;

123 (c) To condition the drawing on a minimum number of  
 124 tickets having been disbursed to contributors or on a minimum  
 125 amount of contributions having been received;

126 (d) To arbitrarily remove, disqualify, disallow, or reject  
 127 any entry or to discriminate in any manner between entrants who  
 128 gave contributions to the organization and those who did not  
 129 give such contributions;

130 (e) To fail to promptly notify, at the address set forth  
 131 on the entry blank, any person, whose entry is selected to win,  
 132 of the fact that he or she won;

133 (f) To fail to award all prizes offered;

134 (g) To print, publish, or circulate literature or  
 135 advertising material used in connection with the drawing which  
 136 is false, deceptive, or misleading;

137 (h) To cancel a drawing; ~~or~~

138 (i) To condition the acquisition or giveaway of any prize  
 139 upon the receipt of voluntary donations or contributions; or

140 (j) To engage in, promote, or conduct any drawing through  
 141 the use of any mechanically or electronically operated machine,  
 142 network, system, or device that is:

143 1. Owned, leased, or otherwise controlled by the  
 144 organization or a partner, affiliate, subsidiary, contractor, or  
 145 agent of the organization; and

146 2. Operated, played, or otherwise interacted with by an  
 147 entrant to the drawing in an establishment controlled by or in  
 148 any way affiliated with the operator.

149 ~~(7)(a) Any organization which engages in any act or~~  
 150 ~~practice in violation of this section is guilty of a misdemeanor~~  
 151 ~~of the second degree, punishable as provided in s. 775.082 or s.~~  
 152 ~~775.083. However,~~ Any organization or other person who sells or  
 153 offers for sale in this state a ticket or entry blank for a  
 154 raffle or other drawing by chance, without complying with the  
 155 requirements of paragraph (3)(d), commits ~~is guilty of~~ a  
 156 misdemeanor of the second degree, punishable by fine only as  
 157 provided in s. 775.083.

158 (b) Any organization or person who violates paragraph  
 159 (4)(j) commits a misdemeanor of the first degree, punishable as  
 160 provided in s. 775.082 or s. 775.083.

161 (c) Any organization that engages in any other act or  
 162 practice in violation of this section commits a misdemeanor of  
 163 the second degree, punishable as provided in s. 775.082 or s.  
 164 775.083.

165 Section 4. Section 849.094, Florida Statutes, is amended  
 166 to read:

167 849.094 Game promotion in connection with sale of consumer

168 products or services.-

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

170 (a) "Department" means the Department of Business and  
 171 Professional Regulation.

172 (b)-(a) "Game promotion" means, but is not limited to, a  
 173 contest, game of chance, sweepstakes, or gift enterprise,  
 174 conducted by an operator within or throughout the state and  
 175 other states in connection with and incidental to the sale of  
 176 consumer products or services, and in which the elements of  
 177 chance and prize are present. However, "game promotion" may  
 178 ~~shall~~ not be construed to apply to bingo games conducted  
 179 pursuant to s. 849.0931.

180 (c)-(b) "Operator" means any person, firm, corporation,  
 181 enterprise, organization, or association or agent or employee  
 182 thereof who promotes, operates, or conducts a game promotion,  
 183 ~~except any charitable nonprofit organization.~~

184 (2) The provisions of s. 849.09 may not be construed to  
 185 prohibit an operator from conducting a game promotion pursuant  
 186 to this section, provided the operator has complied with the  
 187 provisions of this section. Authority to conduct game promotions  
 188 pursuant to this section does not provide an exemption to s.  
 189 849.01, s. 849.15, or any other law.

190 (3) An organization, as defined by s. 849.0935, may not  
 191 operate a game promotion.

192 (4)-(2) It is unlawful for any operator:

193 (a) To engage in, promote, or conduct such a game  
 194 promotion through the use of any mechanically or electronically  
 195 operated machine, network, system, or device that is:

196        1. Owned, leased, or otherwise controlled by the  
 197 organization or the organization's partners, affiliates,  
 198 subsidiaries, contractors, or agents; and

199        2. Operated, played, or otherwise interacted with by an  
 200 entrant to the game promotion in an establishment controlled by  
 201 or in any way affiliated with the operator.

202        (b)~~(a)~~ To design, engage in, promote, or conduct such a  
 203 game promotion, in connection with the promotion or sale of  
 204 consumer products or services, wherein the winner may be  
 205 predetermined or the game may be manipulated or rigged so as to:

206            1. Allocate a winning game or any portion thereof to  
 207 certain lessees, agents, or franchises; or

208            2. Allocate a winning game or part thereof to a particular  
 209 period of the game promotion or to a particular geographic area;

210        (c)~~(b)~~ Arbitrarily to remove, disqualify, disallow, or  
 211 reject any entry;

212        (d)~~(c)~~ To fail to award prizes offered;

213        (e)~~(d)~~ To print, publish, or circulate literature or  
 214 advertising material used in connection with such game  
 215 promotions which is false, deceptive, or misleading; or

216        (f)~~(e)~~ To require an entry fee, payment, or proof of  
 217 purchase as a condition of entering a game promotion.

218        (5)~~(3)~~ The operator of a game promotion in which the total  
 219 announced value of the prizes offered is greater than \$5,000  
 220 shall file with the department ~~of Agriculture and Consumer~~  
 221 ~~Services~~ a copy of the rules and regulations of the game  
 222 promotion and a list of all prizes and prize categories offered  
 223 at least 7 days before the commencement of the game promotion.



224 Such rules and regulations may not thereafter be changed,  
 225 modified, or altered. The operator of a game promotion shall  
 226 conspicuously post the rules and regulations of such game  
 227 promotion in each and every retail outlet or place where such  
 228 game promotion may be played or participated in by the public  
 229 and shall also publish the rules and regulations in all  
 230 advertising copy used in connection therewith. However, such  
 231 advertising copy need only include the material terms of the  
 232 rules and regulations if the advertising copy includes a website  
 233 address, a toll-free telephone number, or a mailing address  
 234 where the full rules and regulations may be viewed, heard, or  
 235 obtained for the full duration of the game promotion. Such  
 236 disclosures must be legible. Radio and television announcements  
 237 may indicate that the rules and regulations are available at  
 238 retail outlets or from the operator of the promotion. A  
 239 nonrefundable filing fee of \$100 shall accompany each filing and  
 240 shall be used to pay the costs incurred in administering and  
 241 enforcing the provisions of this section.

242 (6)~~(4)~~(a) Every operator of such a game promotion in which  
 243 the total announced value of the prizes offered is greater than  
 244 \$5,000 shall establish a trust account, in a national or state-  
 245 chartered financial institution, with a balance sufficient to  
 246 pay or purchase the total value of all prizes offered. On a form  
 247 supplied by the department ~~of Agriculture and Consumer Services,~~  
 248 an official of the financial institution holding the trust  
 249 account shall set forth the dollar amount of the trust account,  
 250 the identity of the entity or individual establishing the trust  
 251 account, and the name of the game promotion for which the trust

252 account has been established. Such form shall be filed with the  
 253 department ~~of Agriculture and Consumer Services~~ at least 7 days  
 254 in advance of the commencement of the game promotion. In lieu of  
 255 establishing such trust account, the operator may obtain a  
 256 surety bond in an amount equivalent to the total value of all  
 257 prizes offered; and such bond shall be filed with the department  
 258 ~~of Agriculture and Consumer Services~~ at least 7 days in advance  
 259 of the commencement of the game promotion.

260 1. The moneys held in the trust account may be withdrawn  
 261 in order to pay the prizes offered only upon certification to  
 262 the department ~~of Agriculture and Consumer Services~~ of the name  
 263 of the winner or winners and the amount of the prize or prizes  
 264 and the value thereof.

265 2. If the operator of a game promotion has obtained a  
 266 surety bond in lieu of establishing a trust account, the amount  
 267 of the surety bond shall equal at all times the total amount of  
 268 the prizes offered.

269 (b) The department ~~of Agriculture and Consumer Services~~  
 270 may waive the provisions of this subsection for any operator who  
 271 has conducted game promotions in the state for not less than 5  
 272 consecutive years and who has not had any civil, criminal, or  
 273 administrative action instituted against him or her by the state  
 274 or an agency of the state for violation of this section within  
 275 that 5-year period. Such waiver may be revoked upon the  
 276 commission of a violation of this section by such operator, as  
 277 determined by the department ~~of Agriculture and Consumer~~  
 278 ~~Services~~.

279 (7)~~(5)~~ Every operator of a game promotion in which the

280 total announced value of the prizes offered is greater than  
 281 \$5,000 shall provide the department ~~of Agriculture and Consumer~~  
 282 ~~Services~~ with a certified list of the names and addresses of all  
 283 persons, whether from this state or from another state, who have  
 284 won prizes which have a value of more than \$25, the value of  
 285 such prizes, and the dates when the prizes were won within 60  
 286 days after such winners have been finally determined. The  
 287 operator shall provide a copy of the list of winners, without  
 288 charge, to any person who requests it. In lieu of the foregoing,  
 289 the operator of a game promotion may, at his or her option,  
 290 publish the same information about the winners in a Florida  
 291 newspaper of general circulation within 60 days after such  
 292 winners have been determined and shall provide to the department  
 293 ~~of Agriculture and Consumer Services~~ a certified copy of the  
 294 publication containing the information about the winners. The  
 295 operator of a game promotion is not required to notify a winner  
 296 by mail or by telephone when the winner is already in possession  
 297 of a game card from which the winner can determine that he or  
 298 she has won a designated prize. All winning entries shall be  
 299 held by the operator for a period of 90 days after the close or  
 300 completion of the game.

301 (8) ~~(6)~~ The department ~~of Agriculture and Consumer Services~~  
 302 shall keep the certified list of winners for a period of at  
 303 least 6 months after receipt of the certified list. The  
 304 department thereafter may dispose of all records and lists.

305 (9) ~~(7)~~ No operator shall force, directly or indirectly, a  
 306 lessee, agent, or franchise dealer to purchase or participate in  
 307 any game promotion. For the purpose of this section, coercion or

308 force shall be presumed in these circumstances in which a course  
 309 of business extending over a period of 1 year or longer is  
 310 materially changed coincident with a failure or refusal of a  
 311 lessee, agent, or franchise dealer to participate in such game  
 312 promotions. Such force or coercion shall further be presumed  
 313 when an operator advertises generally that game promotions are  
 314 available at its lessee dealers or agent dealers.

315 (10)~~(8)~~ (a) The department may adopt ~~of Agriculture and~~  
 316 ~~Consumer Services shall have the power to promulgate~~ such rules  
 317 and regulations respecting the operation of game promotions as  
 318 it deems ~~may deem~~ advisable.

319 (b) Compliance with the rules of the department does not  
 320 authorize and is not a defense to a charge of possession of a  
 321 slot machine or device or any other device or a violation of any  
 322 other law.

323 (c)~~(b)~~ Whenever the department ~~of Agriculture and Consumer~~  
 324 ~~Services~~ or the Department of Legal Affairs has reason to  
 325 believe that a game promotion is being operated in violation of  
 326 this section, it may bring an action in the circuit court of any  
 327 judicial circuit in which the game promotion is being operated  
 328 in the name and on behalf of the people of the state against any  
 329 operator thereof to enjoin the continued operation of such game  
 330 promotion anywhere within the state.

331 (11)~~(9)~~ (a) Any person, firm, or corporation, or  
 332 association or agent or employee thereof, who engages in any  
 333 acts or practices stated in this section to be unlawful, or who  
 334 violates any of the rules and regulations made pursuant to this  
 335 section, commits ~~is guilty of~~ a misdemeanor of the second

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

337 (b) Any person, firm, or corporation, or association or  
 338 agent or employee thereof, who violates paragraph (4) (a) commits  
 339 a felony of the third degree, punishable as provided in s.  
 340 775.082, s. 775.083, or s. 775.084.

341 (c) ~~(b)~~ Any person, firm, corporation, association, agent,  
 342 or employee who violates any provision of this section or any of  
 343 the rules and regulations made pursuant to this section shall be  
 344 liable for a civil penalty of not more than \$1,000 for each such  
 345 violation, which shall accrue to the state and may be recovered  
 346 in a civil action brought by the department of ~~Agriculture and~~  
 347 ~~Consumer Services~~ or the Department of Legal Affairs.

348 (12) A violation of this section, or soliciting another to  
 349 do an act which violates this section, constitutes a deceptive  
 350 and unfair trade practice actionable under the Florida Deceptive  
 351 and Unfair Trade Practices Act.

352 (13) ~~(10)~~ This section does not apply to actions or  
 353 transactions regulated by the Department of Business and  
 354 Professional Regulation or to the activities of nonprofit  
 355 organizations or to any other organization engaged in any  
 356 enterprise other than the sale of consumer products or services.  
 357 Subsections ~~(3), (4),~~ (5), (6), and (7), (8), and (9) and  
 358 paragraph ~~(10) ~~(8)~~~~ (a) and any of the rules made pursuant thereto  
 359 do not apply to television or radio broadcasting companies  
 360 licensed by the Federal Communications Commission.

361 Section 5. Section 849.16, Florida Statutes, is amended to  
 362 read:

363 849.16 Machines or devices which come within provisions of

364 law defined.—

365 (1) As used in this chapter, the term "slot machine or  
 366 device" means any machine or device or system or network of  
 367 devices ~~is a slot machine or device within the provisions of~~  
 368 ~~this chapter if it is one~~ that is adapted for use in such a way  
 369 that, upon activation, which may be achieved by, but is not  
 370 limited to, as a result of the insertion of any piece of money,  
 371 coin, account number, code or any other object or information,  
 372 such ~~machine or device~~ or system is directly or indirectly  
 373 caused to operate or may be operated and if the user, whether by  
 374 application of skill or by reason of any element of chance or ~~of~~  
 375 any other outcome ~~of such operation~~ unpredictable by the user  
 376 ~~him or her~~, may:

377 (a) Receive or become entitled to receive any piece of  
 378 money, credit, allowance, or thing of value, or any check, slug,  
 379 token, or memorandum, whether of value or otherwise, which may  
 380 be exchanged for any money, credit, allowance, or thing of value  
 381 or which may be given in trade; or

382 (b) Secure additional chances or rights to use such  
 383 machine, apparatus, or device, even though the device or system  
 384 ~~it~~ may be available for free play or, in addition to any element  
 385 of chance or unpredictable outcome of such operation, may also  
 386 sell, deliver, or present some merchandise, indication of  
 387 weight, entertainment, or other thing of value. The term "slot  
 388 machine or device" includes, but is not limited to, devices  
 389 regulated as slot machines pursuant to chapter 551.

390 (2) Nothing contained in this chapter shall be construed,  
 391 interpreted, or applied to the possession of a reverse vending

392 machine. As used in this section, a reverse vending machine is a  
 393 machine into which empty beverage containers are deposited for  
 394 recycling and which provides a payment of money, merchandise,  
 395 vouchers, or other incentives. At a frequency less than upon the  
 396 deposit of each beverage container, a reverse vending machine  
 397 may pay out a random incentive bonus greater than that  
 398 guaranteed payment in the form of money, merchandise, vouchers,  
 399 or other incentives. The deposit of any empty beverage container  
 400 into a reverse vending machine does not constitute consideration  
 401 nor shall a reverse vending machine be deemed to be a slot  
 402 machine within this section.

403 (3) There is a rebuttable presumption that a device,  
 404 system, or network is a prohibited slot machine or device if it  
 405 is used to display images of games of chance and is part of a  
 406 scheme involving any payment or donation of money or its  
 407 equivalent and awarding any thing of value.

408 Section 6. Paragraph (a) of subsection (1) of section  
 409 895.02, Florida Statutes, is amended to read:

410 895.02 Definitions.—As used in ss. 895.01-895.08, the  
 411 term:

412 (1) "Racketeering activity" means to commit, to attempt to  
 413 commit, to conspire to commit, or to solicit, coerce, or  
 414 intimidate another person to commit:

415 (a) Any crime that is chargeable by petition, indictment,  
 416 or information under the following provisions of the Florida  
 417 Statutes:

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

- 420           2. Section 316.1935, relating to fleeing or attempting to
- 421 elude a law enforcement officer and aggravated fleeing or
- 422 eluding.
- 423           3. Section 403.727(3)(b), relating to environmental
- 424 control.
- 425           4. Section 409.920 or s. 409.9201, relating to Medicaid
- 426 fraud.
- 427           5. Section 414.39, relating to public assistance fraud.
- 428           6. Section 440.105 or s. 440.106, relating to workers'
- 429 compensation.
- 430           7. Section 443.071(4), relating to creation of a
- 431 fictitious employer scheme to commit unemployment compensation
- 432 fraud.
- 433           8. Section 465.0161, relating to distribution of medicinal
- 434 drugs without a permit as an Internet pharmacy.
- 435           9. Section 499.0051, relating to crimes involving
- 436 contraband and adulterated drugs.
- 437           10. Part IV of chapter 501, relating to telemarketing.
- 438           11. Chapter 517, relating to sale of securities and
- 439 investor protection.
- 440           12. Section 550.235 or s. 550.3551, relating to dogracing
- 441 and horseracing.
- 442           13. Chapter 550, relating to jai alai frontons.
- 443           14. Section 551.109, relating to slot machine gaming.
- 444           15. Chapter 552, relating to the manufacture,
- 445 distribution, and use of explosives.
- 446           16. Chapter 560, relating to money transmitters, if the
- 447 violation is punishable as a felony.



- 448 17. Chapter 562, relating to beverage law enforcement.
- 449 18. Section 624.401, relating to transacting insurance
- 450 without a certificate of authority, s. 624.437(4)(c)1., relating
- 451 to operating an unauthorized multiple-employer welfare
- 452 arrangement, or s. 626.902(1)(b), relating to representing or
- 453 aiding an unauthorized insurer.
- 454 19. Section 655.50, relating to reports of currency
- 455 transactions, when such violation is punishable as a felony.
- 456 20. Chapter 687, relating to interest and usurious
- 457 practices.
- 458 21. Section 721.08, s. 721.09, or s. 721.13, relating to
- 459 real estate timeshare plans.
- 460 22. Section 775.13(5)(b), relating to registration of
- 461 persons found to have committed any offense for the purpose of
- 462 benefiting, promoting, or furthering the interests of a criminal
- 463 gang.
- 464 23. Section 777.03, relating to commission of crimes by
- 465 accessories after the fact.
- 466 24. Chapter 782, relating to homicide.
- 467 25. Chapter 784, relating to assault and battery.
- 468 26. Chapter 787, relating to kidnapping or human
- 469 trafficking.
- 470 27. Chapter 790, relating to weapons and firearms.
- 471 28. Chapter 794, relating to sexual battery, but only if
- 472 such crime was committed with the intent to benefit, promote, or
- 473 further the interests of a criminal gang, or for the purpose of
- 474 increasing a criminal gang member's own standing or position
- 475 within a criminal gang.

- 476           29. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.  
 477 796.05, or s. 796.07, relating to prostitution and sex  
 478 trafficking.
- 479           30. Chapter 806, relating to arson and criminal mischief.
- 480           31. Chapter 810, relating to burglary and trespass.
- 481           32. Chapter 812, relating to theft, robbery, and related  
 482 crimes.
- 483           33. Chapter 815, relating to computer-related crimes.
- 484           34. Chapter 817, relating to fraudulent practices, false  
 485 pretenses, fraud generally, and credit card crimes.
- 486           35. Chapter 825, relating to abuse, neglect, or  
 487 exploitation of an elderly person or disabled adult.
- 488           36. Section 827.071, relating to commercial sexual  
 489 exploitation of children.
- 490           37. Chapter 831, relating to forgery and counterfeiting.
- 491           38. Chapter 832, relating to issuance of worthless checks  
 492 and drafts.
- 493           39. Section 836.05, relating to extortion.
- 494           40. Chapter 837, relating to perjury.
- 495           41. Chapter 838, relating to bribery and misuse of public  
 496 office.
- 497           42. Chapter 843, relating to obstruction of justice.
- 498           43. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
 499 s. 847.07, relating to obscene literature and profanity.
- 500           44. Chapter 849 ~~Section 849.09, s. 849.14, s. 849.15, s.~~  
 501 ~~849.23, or s. 849.25,~~ relating to gambling, lottery, gambling or  
 502 gaming devices, slot machines or any of the provisions within  
 503 that chapter.

504 45. Chapter 874, relating to criminal gangs.

505 46. Chapter 893, relating to drug abuse prevention and  
506 control.

507 47. Chapter 896, relating to offenses related to financial  
508 transactions.

509 48. Sections 914.22 and 914.23, relating to tampering with  
510 or harassing a witness, victim, or informant, and retaliation  
511 against a witness, victim, or informant.

512 49. Sections 918.12 and 918.13, relating to tampering with  
513 jurors and evidence.

514 Section 7. Subsection (2) of section 721.111, Florida  
515 Statutes, is amended to read:

516 721.111 Prize and gift promotional offers.—

517 (2) A game promotion, such as a contest of chance, gift  
518 enterprise, or sweepstakes, in which the elements of chance and  
519 prize are present may not be used in connection with the  
520 offering or sale of timeshare interests, except for drawings, as  
521 that term is defined in s. 849.0935(1)(a), in which no more than  
522 26 prizes are promoted and in which all promoted prizes are  
523 actually awarded. All such drawings must meet all requirements  
524 of this chapter and of ss. 849.092 and 849.094(1), (4) ~~(2)~~, and  
525 (9) ~~(7)~~.

526 Section 8. For the purpose of incorporating the amendment  
527 made by this act to section 895.02, Florida Statutes, in a  
528 reference thereto, paragraph (a) of subsection (1) of section  
529 16.56, Florida Statutes, is reenacted to read:

530 16.56 Office of Statewide Prosecution.—

531 (1) There is created in the Department of Legal Affairs an

532 Office of Statewide Prosecution. The office shall be a separate  
 533 "budget entity" as that term is defined in chapter 216. The  
 534 office may:

535 (a) Investigate and prosecute the offenses of:

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

539 2. Any crime involving narcotic or other dangerous drugs;

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

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

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

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

556 7. Any violation of s. 847.0135, relating to computer  
 557 pornography and child exploitation prevention, or any offense  
 558 related to a violation of s. 847.0135 or any violation of  
 559 chapter 827 where the crime is facilitated by or connected to

560 the use of the Internet or any device capable of electronic data  
561 storage or transmission;

562 8. Any violation of the provisions of chapter 815;

563 9. Any criminal violation of part I of chapter 499;

564 10. Any violation of the provisions of the Florida Motor  
565 Fuel Tax Relief Act of 2004;

566 11. Any criminal violation of s. 409.920 or s. 409.9201;

567 12. Any crime involving voter registration, voting, or  
568 candidate or issue petition activities;

569 13. Any criminal violation of the Florida Money Laundering  
570 Act; or

571 14. Any criminal violation of the Florida Securities and  
572 Investor Protection Act; or any attempt, solicitation, or  
573 conspiracy to commit any of the crimes specifically enumerated  
574 above. The office shall have such power only when any such  
575 offense is occurring, or has occurred, in two or more judicial  
576 circuits as part of a related transaction, or when any such  
577 offense is connected with an organized criminal conspiracy  
578 affecting two or more judicial circuits. Informations or  
579 indictments charging such offenses shall contain general  
580 allegations stating the judicial circuits and counties in which  
581 crimes are alleged to have occurred or the judicial circuits and  
582 counties in which crimes affecting such circuits or counties are  
583 alleged to have been connected with an organized criminal  
584 conspiracy.

585 Section 9. For the purpose of incorporating the amendment  
586 made by this act to section 849.16, Florida Statutes, in a

587 reference thereto, subsection (1) of section 338.234, Florida  
 588 Statutes, is reenacted to read:

589       338.234 Granting concessions or selling along the turnpike  
 590 system; immunity from taxation.—

591       (1) The department may enter into contracts or licenses  
 592 with any person for the sale of services or products or business  
 593 opportunities on the turnpike system, or the turnpike enterprise  
 594 may sell services, products, or business opportunities on the  
 595 turnpike system, which benefit the traveling public or provide  
 596 additional revenue to the turnpike system. Services, business  
 597 opportunities, and products authorized to be sold include, but  
 598 are not limited to, motor fuel, vehicle towing, and vehicle  
 599 maintenance services; food with attendant nonalcoholic  
 600 beverages; lodging, meeting rooms, and other business services  
 601 opportunities; advertising and other promotional opportunities,  
 602 which advertising and promotions must be consistent with the  
 603 dignity and integrity of the state; state lottery tickets sold  
 604 by authorized retailers; games and amusements that operate by  
 605 the application of skill, not including games of chance as  
 606 defined in s. 849.16 or other illegal gambling games; Florida  
 607 citrus, goods promoting the state, or handmade goods produced  
 608 within the state; and travel information, tickets, reservations,  
 609 or other related services. However, the department, pursuant to  
 610 the grants of authority to the turnpike enterprise under this  
 611 section, shall not exercise the power of eminent domain solely  
 612 for the purpose of acquiring real property in order to provide  
 613 business services or opportunities, such as lodging and meeting-  
 614 room space on the turnpike system.

615 Section 10. For the purpose of incorporating the amendment  
 616 made by this act to section 895.02, Florida Statutes, in a  
 617 reference thereto, paragraph (g) of subsection (3) of section  
 618 655.50, Florida Statutes, is reenacted to read:

619 655.50 Florida Control of Money Laundering in Financial  
 620 Institutions Act; reports of transactions involving currency or  
 621 monetary instruments; when required; purpose; definitions;  
 622 penalties.—

623 (3) As used in this section, the term:

624 (g) "Specified unlawful activity" means any "racketeering  
 625 activity" as defined in s. 895.02.

626 Section 11. For the purpose of incorporating the amendment  
 627 made by this act to section 849.16, Florida Statutes, in a  
 628 reference thereto, section 849.19, Florida Statutes, is  
 629 reenacted to read:

630 849.19 Property rights in confiscated machine.—The right  
 631 of property in and to any machine, apparatus or device as  
 632 defined in s. 849.16 and to all money and other things of value  
 633 therein, is declared not to exist in any person, and the same  
 634 shall be forfeited and such money or other things of value shall  
 635 be forfeited to the county in which the seizure was made and  
 636 shall be delivered forthwith to the clerk of the circuit court  
 637 and shall by her or him be placed in the fine and forfeiture  
 638 fund of said county.

639 Section 12. For the purpose of incorporating the amendment  
 640 made by this act to section 895.02, Florida Statutes, in a  
 641 reference thereto, paragraph (g) of subsection (2) of section  
 642 896.101, Florida Statutes, is reenacted to read:

643 896.101 Florida Money Laundering Act; definitions;  
 644 penalties; injunctions; seizure warrants; immunity.—

645 (2) As used in this section, the term:

646 (g) "Specified unlawful activity" means any "racketeering  
 647 activity" as defined in s. 895.02.

648 Section 13. For the purpose of incorporating the amendment  
 649 made by this act to section 895.02, Florida Statutes, in a  
 650 reference thereto, subsection (3) of section 905.34, Florida  
 651 Statutes, is reenacted to read:

652 905.34 Powers and duties; law applicable.—The jurisdiction  
 653 of a statewide grand jury impaneled under this chapter shall  
 654 extend throughout the state. The subject matter jurisdiction of  
 655 the statewide grand jury shall be limited to the offenses of:

656 (3) Any violation of the provisions of the Florida RICO  
 657 (Racketeer Influenced and Corrupt Organization) Act, including  
 658 any offense listed in the definition of racketeering activity in  
 659 s. 895.02(1)(a), providing such listed offense is investigated  
 660 in connection with a violation of s. 895.03 and is charged in a  
 661 separate count of an information or indictment containing a  
 662 count charging a violation of s. 895.03, the prosecution of  
 663 which listed offense may continue independently if the  
 664 prosecution of the violation of s. 895.03 is terminated for any  
 665 reason; or any attempt, solicitation, or conspiracy to commit  
 666 any violation of the crimes specifically enumerated above, when  
 667 any such offense is occurring, or has occurred, in two or more  
 668 judicial circuits as part of a related transaction or when any  
 669 such offense is connected with an organized criminal conspiracy  
 670 affecting two or more judicial circuits. The statewide grand



PCS for CS/HB 3

ORIGINAL

2012

671 jury may return indictments and presentments irrespective of the  
672 county or judicial circuit where the offense is committed or  
673 triable. If an indictment is returned, it shall be certified and  
674 transferred for trial to the county where the offense was  
675 committed. The powers and duties of, and law applicable to,  
676 county grand juries shall apply to a statewide grand jury except  
677 when such powers, duties, and law are inconsistent with the  
678 provisions of ss. 905.31-905.40.

679 Section 14. This act shall take effect upon becoming law.