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## The 2023 Florida Statutes (including Special Session C)

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[Title XLVI](#)  
CRIMES

[Chapter 849](#)  
GAMBLING

[View Entire Chapter](#)

### CHAPTER 849 GAMBLING

- 849.01 Keeping gambling houses, etc.
- 849.02 Agents or employees of keeper of gambling house.
- 849.03 Renting house for gambling purposes.
- 849.04 Permitting minors and persons under guardianship to gamble.
- 849.05 Prima facie evidence.
- 849.07 Permitting gambling on billiard or pool table by holder of license.
- 849.08 Gambling.
- 849.085 Certain penny-ante games not crimes; restrictions.
- 849.086 Cardrooms authorized.
- 849.09 Lottery prohibited; exceptions.
- 849.091 Chain letters, pyramid clubs, etc., declared a lottery; prohibited; penalties.
- 849.0915 Referral selling.
- 849.092 Motor fuel retail business; certain activities permitted.
- 849.0931 Bingo authorized; conditions for conduct; permitted uses of proceeds; limitations.
- 849.0935 Charitable, nonprofit organizations; drawings by chance; required disclosures; unlawful acts and practices; penalties.
- 849.094 Game promotion in connection with sale of consumer products or services.
- 849.10 Printing lottery tickets, etc., prohibited.
- 849.11 Plays at games of chance by lot.
- 849.12 Money and prizes to be forfeited.
- 849.13 Punishment on second conviction.
- 849.14 Unlawful to bet on result of trial or contest of skill, etc.
- 849.141 Bowling tournaments exempted from chapter.
- 849.142 Exempted activities.
- 849.15 Manufacture, sale, possession, etc., of slot machines or devices prohibited.
- 849.16 Machines or devices which come within provisions of law defined.
- 849.17 Confiscation of machines by arresting officer.
- 849.18 Disposition of machines upon conviction.
- 849.19 Property rights in confiscated machine.
- 849.20 Machines and devices declared nuisance; place of operation subject to lien for fine.
- 849.21 Injunction to restrain violation.
- 849.22 Fees of clerk of circuit court and sheriff.
- 849.23 Penalty for violations of ss. 849.15-849.22.
- 849.231 Gambling devices; manufacture, sale, purchase or possession unlawful.
- 849.232 Property right in gambling devices; confiscation.
- 849.233 Penalty for violation of s. 849.231.

- 849.235 Possession of certain gambling devices; defense.
- 849.25 "Bookmaking" defined; penalties; exceptions.
- 849.251 Wagering, aiding, abetting, or conniving to race or wager on greyhounds or other dogs; penalty.
- 849.26 Gambling contracts declared void; exception.
- 849.29 Persons against whom suits may be brought to recover on gambling contracts.
- 849.30 Plaintiff entitled to writs of attachment, garnishment and replevin.
- 849.31 Loser's testimony not to be used against her or him.
- 849.32 Notice to state attorney; prosecution of suit.
- 849.33 Judgment and collection of money; execution.
- 849.34 Loser's judgment; recovery of property; writ of assistance.
- 849.35 Definitions.
- 849.36 Seizure and forfeiture of property used in the violation of lottery and gambling statutes.
- 849.37 Disposition and appraisal of property seized under this chapter.
- 849.38 Proceedings for forfeiture; notice of seizure and order to show cause.
- 849.39 Delivery of property to claimant.
- 849.40 Proceeding when no claim filed.
- 849.41 Proceeding when claim filed.
- 849.42 State attorney to represent state.
- 849.43 Judgment of forfeiture.
- 849.44 Disposition of proceeds of forfeiture.
- 849.45 Fees for services.
- 849.46 Exercise of police power.

**849.01 Keeping gambling houses, etc.**—Whoever by herself or himself, her or his servant, clerk or agent, or in any other manner has, keeps, exercises or maintains a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter or other place for the purpose of gaming or gambling or in any place of which she or he may directly or indirectly have charge, control or management, either exclusively or with others, procures, suffers or permits any person to play for money or other valuable thing at any game whatever, whether heretofore prohibited or not, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 3764, 1887; RS 2644; GS 3572; RGS 5499; CGL 7657; s. 1059, ch. 71-136; s. 1355, ch. 97-102; s. 43, ch. 2019-167.

**849.02 Agents or employees of keeper of gambling house.**—Whoever acts as servant, clerk, agent, or employee of any person in the violation of s. 849.01 shall be punished in the manner and to the extent therein mentioned.

History.—s. 2, ch. 3764, 1887; RS 2645; GS 3573; RGS 5500; CGL 7658; s. 116, ch. 2019-167.

**849.03 Renting house for gambling purposes.**—Whoever, whether as owner or agent, knowingly rents to another a house, room, booth, tent, shelter or place for the purpose of gaming shall be punished in the manner and to the extent mentioned in s. 849.01.

History.—s. 3, ch. 3764, 1887; RS 2646; GS 3574; RGS 5501; CGL 7659.

**849.04 Permitting minors and persons under guardianship to gamble.**—The proprietor, owner, or keeper of any E. O., keno or pool table, or billiard table, wheel of fortune, or other game of chance kept for the purpose of betting, who willfully and knowingly allows a minor or person who is mentally incompetent or under guardianship to play at such game or to bet on such game of chance; or whoever aids or abets or otherwise encourages such playing or betting of any money or other valuable thing upon the result of such game of chance by a minor or person who is mentally incompetent or under guardianship, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purpose of this section, the term "person who is mentally incompetent"

means a person who because of mental illness, intellectual disability, senility, excessive use of drugs or alcohol, or other mental incapacity is incapable of managing his or her property or caring for himself or herself or both.

History.—s. 1, ch. 3145, 1879; RS 2647; s. 9, ch. 4322, 1895; GS 3575; RGS 5502; CGL 7660; s. 1060, ch. 71-136; s. 5, ch. 88-33; s. 1356, ch. 97-102; s. 24, ch. 2013-162.

**849.05 Prima facie evidence.**—If any of the implements, devices or apparatus commonly used in games of chance in gambling houses or by gamblers, are found in any house, room, booth, shelter or other place it shall be prima facie evidence that the said house, room, booth, shelter or other place where the same are found is kept for the purpose of gambling.

History.—s. 4, ch. 3764, 1887; RS 2648; GS 3576; RGS 5503; CGL 7661; s. 243, ch. 77-104.

**849.07 Permitting gambling on billiard or pool table by holder of license.**—If any holder of a license to operate a billiard or pool table shall permit any person to play billiards or pool or any other game for money, or any other thing of value, upon such tables, she or he shall be deemed guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 14, ch. 6421, 1913; RGS 5505; CGL 7663; s. 1062, ch. 71-136; s. 1357, ch. 97-102.

**849.08 Gambling.**—Whoever plays or engages in any game at cards, keno, roulette, faro or other game of chance, at any place, by any device whatever, for money or other thing of value, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—RS 2651; s. 1, ch. 4514, 1895; GS 3579; RGS 5508; CGL 7666; s. 1063, ch. 71-136.

**849.085 Certain penny-ante games not crimes; restrictions.**—

(1) Notwithstanding any other provision of law, it is not a crime for a person to participate in a game described in this section if such game is conducted strictly in accordance with this section.

(2) As used in this section:

(a) “Penny-ante game” means a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg in which the winnings of any player in a single round, hand, or game do not exceed \$10 in value.

(b) “Dwelling” means residential premises owned or rented by a participant in a penny-ante game and occupied by such participant or the common elements or common areas of a condominium, cooperative, residential subdivision, or mobile home park of which a participant in a penny-ante game is a unit owner, or the facilities of an organization which is tax-exempt under s. 501(c)(7) of the Internal Revenue Code. The term “dwelling” also includes a college dormitory room or the common recreational area of a college dormitory or a publicly owned community center owned by a municipality or county.

(3) A penny-ante game is subject to the following restrictions:

(a) The game must be conducted in a dwelling.

(b) A person may not receive any consideration or commission for allowing a penny-ante game to occur in his or her dwelling.

(c) A person may not directly or indirectly charge admission or any other fee for participation in the game.

(d) A person may not solicit participants by means of advertising in any form, advertise the time or place of any penny-ante game, or advertise the fact that he or she will be a participant in any penny-ante game.

(e) A penny-ante game may not be conducted in which any participant is under 18 years of age.

(4) A debt created or owed as a consequence of any penny-ante game is not legally enforceable.

(5) The conduct of any penny-ante game within the common elements or common area of a condominium, cooperative, residential subdivision, or mobile home park or the conduct of any penny-ante game within the dwelling of an eligible organization as defined in subsection (2) or within a publicly owned community center owned by a municipality or county creates no civil liability for damages arising from the penny-ante game on the part of a condominium association, cooperative association, a homeowners’ association as defined in s. 720.301, mobile home owners’ association, dwelling owner, or municipality or county or on the part of a unit owner who was not a participant in the game.

**849.086 Cardrooms authorized.—**

(1) **LEGISLATIVE INTENT.**—It is the intent of the Legislature to provide additional entertainment choices for the residents of and visitors to the state, promote tourism in the state, and provide additional state revenues through the authorization of the playing of certain games in the state at facilities known as cardrooms which are to be located at licensed pari-mutuel facilities. To ensure the public confidence in the integrity of authorized cardroom operations, this act is designed to strictly regulate the facilities, persons, and procedures related to cardroom operations. Furthermore, the Legislature finds that authorized games as herein defined are considered to be pari-mutuel style games and not casino gaming because the participants play against each other instead of against the house.

(2) **DEFINITIONS.**—As used in this section:

(a) “Authorized game” means a game or series of games of poker or dominoes which are played in a nonbanking manner.

(b) “Banking game” means a game in which the house is a participant in the game, taking on players, paying winners, and collecting from losers or in which the cardroom establishes a bank against which participants play.

(c) “Cardroom” means a facility where authorized games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility. Authorized games and cardrooms do not constitute casino gaming operations.

(d) “Cardroom management company” means any individual not an employee of the cardroom operator, any proprietorship, partnership, corporation, or other entity that enters into an agreement with a cardroom operator to manage, operate, or otherwise control the daily operation of a cardroom.

(e) “Cardroom distributor” means any business that distributes cardroom paraphernalia such as card tables, betting chips, chip holders, dominoes, dominoes tables, drop boxes, banking supplies, playing cards, card shufflers, and other associated equipment to authorized cardrooms.

(f) “Cardroom operator” means a licensed pari-mutuel permit holder which holds a valid permit and license issued by the Florida Gaming Control Commission pursuant to chapter 550 and which also holds a valid cardroom license issued by the commission pursuant to this section which authorizes such person to operate a cardroom and to conduct authorized games in such cardroom.

(g) “Commission” means the Florida Gaming Control Commission.

(h) “Dominoes” means a game of dominoes typically played with a set of 28 flat rectangular blocks, called “bones,” which are marked on one side and divided into two equal parts, with zero to six dots, called “pips,” in each part. The term also includes larger sets of blocks that contain a correspondingly higher number of pips. The term also means the set of blocks used to play the game.

(i) “Gross receipts” means the total amount of money received by a cardroom from any person for participation in authorized games.

(j) “House” means the cardroom operator and all employees of the cardroom operator.

(k) “Net proceeds” means the total amount of gross receipts received by a cardroom operator from cardroom operations less direct operating expenses related to cardroom operations, including labor costs, admission taxes only if a separate admission fee is charged for entry to the cardroom facility, gross receipts taxes imposed on cardroom operators by this section, the annual cardroom license fees imposed by this section on each table operated at a cardroom, and reasonable promotional costs excluding officer and director compensation, interest on capital debt, legal fees, real estate taxes, bad debts, contributions or donations, or overhead and depreciation expenses not directly related to the operation of the cardrooms.

(l) “Rake” means a set fee or percentage of the pot assessed by a cardroom operator for providing the services of a dealer, table, or location for playing the authorized game.

(m) “Tournament” means a series of games that have more than one betting round involving one or more tables and where the winners or others receive a prize or cash award.

(3) **CARDROOM AUTHORIZED.**—Notwithstanding any other provision of law, it is not a crime for a person to participate in an authorized game at a licensed cardroom or to operate a cardroom described in this section if such game and cardroom operation are conducted strictly in accordance with the provisions of this section.

(4) **AUTHORITY OF COMMISSION.**—The commission shall administer this section and regulate the operation of cardrooms under this section and the rules adopted pursuant thereto, and is hereby authorized to:

(a) Adopt rules, including, but not limited to: the issuance of cardroom and employee licenses for cardroom operations; the operation of a cardroom; recordkeeping and reporting requirements; and the collection of all fees and taxes imposed by this section.

(b) Conduct investigations and monitor the operation of cardrooms and the playing of authorized games therein.

(c) Review the books, accounts, and records of any current or former cardroom operator.

(d) Suspend or revoke any license or permit, after hearing, for any violation of the provisions of this section or the administrative rules adopted pursuant thereto.

(e) Take testimony, issue summons and subpoenas for any witness, and issue subpoenas duces tecum in connection with any matter within its jurisdiction.

(f) Monitor and ensure the proper collection of taxes and fees imposed by this section. Permitholder internal controls are mandated to ensure no compromise of state funds. To that end, a roaming commission auditor will monitor and verify the cash flow and accounting of cardroom revenue for any given operating day.

(5) **LICENSE REQUIRED; APPLICATION; FEES.**—No person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(a) Only those persons holding a valid cardroom license issued by the commission may operate a cardroom. A cardroom license may only be issued to a licensed pari-mutuel permitholder, and an authorized cardroom may only be operated at the same facility at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities. An initial cardroom license shall be issued to a pari-mutuel permitholder only after its facilities are in place and after it conducts its first day of pari-mutuel activities on racing or games.

(b) After the initial cardroom license is granted, the application for the annual license renewal shall be made in conjunction with the applicant's annual application for its pari-mutuel license. If a permitholder has operated a cardroom during any of the 3 previous fiscal years and fails to include a renewal request for the operation of the cardroom in its annual application for license renewal, the permitholder may amend its annual application to include operation of the cardroom.

(c) Notwithstanding any other provision of law, a pari-mutuel permitholder, other than a permitholder issued a permit pursuant to s. 550.3345 or a purchaser, transferee, or assignee holding a valid permit for the conduct of pari-mutuel wagering approved pursuant to s. 550.054(15)(a), may not be issued a license for the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. In order for an initial cardroom license to be issued to a thoroughbred permitholder issued a permit pursuant to s. 550.3345, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least a full schedule of live racing. In order for a cardroom license to be renewed by a thoroughbred permitholder, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto if the permitholder ran at least a full schedule of live racing or games in the prior year.

(d) Persons seeking a license or a renewal thereof to operate a cardroom shall make application on forms prescribed by the commission. Applications for cardroom licenses shall contain all of the information the commission, by rule, may determine is required to ensure eligibility.

(e) The annual cardroom license fee for each facility shall be \$1,000 for each table to be operated at the cardroom. The license fee shall be deposited by the commission with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund.

(6) BUSINESS AND EMPLOYEE OCCUPATIONAL LICENSE REQUIRED; APPLICATION; FEES.—

(a) A person employed or otherwise working in a cardroom as a cardroom manager, floor supervisor, pit boss, dealer, or any other activity related to cardroom operations while the facility is conducting card playing or games of dominoes must hold a valid cardroom employee occupational license issued by the commission. Food service, maintenance, and security employees with a current pari-mutuel occupational license and a current background check will not be required to have a cardroom employee occupational license.

(b) Any cardroom management company or cardroom distributor associated with cardroom operations must hold a valid cardroom business occupational license issued by the commission.

(c) No licensed cardroom operator may employ or allow to work in a cardroom any person unless such person holds a valid occupational license. No licensed cardroom operator may contract, or otherwise do business with, a business required to hold a valid cardroom business occupational license, unless the business holds such a valid license.

(d) The commission shall establish, by rule, a schedule for the renewal of cardroom occupational licenses. Cardroom occupational licenses are not transferable.

(e) Persons seeking cardroom occupational licenses, or renewal thereof, shall make application on forms prescribed by the commission. Applications for cardroom occupational licenses shall contain all of the information the commission, by rule, may determine is required to ensure eligibility.

(f) The commission shall adopt rules regarding cardroom occupational licenses. The provisions specified in s. 550.105(4), (5), (6), (7), (8), and (10) relating to licensure shall be applicable to cardroom occupational licenses.

(g) The commission may deny, declare ineligible, or revoke any cardroom occupational license if the applicant or holder thereof has been found guilty or had adjudication withheld in this state or any other state, or under the laws of the United States of a felony or misdemeanor involving forgery, larceny, extortion, conspiracy to defraud, or filing false reports to a government agency, racing or gaming commission or authority.

(h) Fingerprints for all cardroom occupational license applications shall be taken in a manner approved by the commission and then shall be submitted to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a criminal records check upon initial application and at least every 5 years thereafter. The commission may by rule require an annual record check of all renewal applications for a cardroom occupational license. The cost of processing fingerprints and conducting a record check shall be borne by the applicant.

(i) The cardroom employee occupational license fee shall not exceed \$50 for any 12-month period. The cardroom business occupational license fee shall not exceed \$250 for any 12-month period.

(7) CONDITIONS FOR OPERATING A CARDROOM.—

(a) A cardroom may be operated only at the location specified on the cardroom license issued by the commission, and such location may only be the location at which the pari-mutuel permit holder is authorized to conduct pari-mutuel wagering activities pursuant to such permit holder's valid pari-mutuel permit or as otherwise authorized by law.

(b) Any cardroom operator may operate a cardroom at the pari-mutuel facility daily throughout the year, if the permit holder meets the requirements under paragraph (5)(b). The cardroom may be open 24 hours per day.

(c) A cardroom operator must at all times employ and provide a nonplaying dealer for each table on which authorized card games which traditionally use a dealer are conducted at the cardroom. Such dealers may not have a participatory interest in any game other than the dealing of cards and may not have an interest in the outcome of the game. The providing of such dealers by a licensee does not constitute the conducting of a banking game by the cardroom operator.

(d) A cardroom operator may award giveaways, jackpots, and prizes to a player who holds certain combinations of cards specified by the cardroom operator.

(e) Each cardroom operator shall conspicuously post upon the premises of the cardroom a notice which contains a copy of the cardroom license; a list of authorized games offered by the cardroom; the wagering limits imposed by the house, if any; any additional house rules regarding operation of the cardroom or the playing of any game; and all costs to players to participate, including any rake by the house. In addition, each cardroom operator shall post

at each table a notice of the minimum and maximum bets authorized at such table and the fee for participation in the game conducted.

(f) The cardroom facility is subject to inspection by the commission or any law enforcement agency during the licensee's regular business hours. The inspection must specifically include the permitholder internal control procedures approved by the commission.

(g) A cardroom operator may refuse entry to or refuse to allow any person who is objectionable, undesirable, or disruptive to play, but such refusal may not be on the basis of race, creed, color, religion, gender, national origin, marital status, physical handicap, or age, except as provided in this section.

(h) Poker games played in a designated player manner in which one player is permitted, but not required, to cover other players' wagers must comply with the following restrictions:

1. Poker games to be played in a designated player manner must have been identified in cardroom license applications approved by the former Division of Pari-mutuel Wagering on or before March 15, 2018, or, if a substantially similar poker game, identified in cardroom license applications approved by the former Division of Pari-mutuel Wagering on or before April 1, 2021.

2. If the cardroom is located in a county where slot machine gaming is authorized under chapter 285 or chapter 551, the cardroom operator is limited to offering no more than 10 tables for the play of poker games in a designated player manner.

3. If the cardroom is located in a county where slot machine gaming is not authorized under chapter 285 or chapter 551, the cardroom operator is limited to offering no more than 30 tables for the play of poker games in a designated player manner.

4. There may not be more than nine players and the nonplayer dealer at each table.

(8) METHOD OF WAGERS; LIMITATION.—

(a) No wagering may be conducted using money or other negotiable currency. Games may only be played utilizing a wagering system whereby all players' money is first converted by the house to tokens or chips which shall be used for wagering only at that specific cardroom.

(b) The cardroom operator may limit the amount wagered in any game or series of games.

(c) A tournament shall consist of a series of games. The entry fee for a tournament may be set by the cardroom operator. Tournaments may be played only with tournament chips that are provided to all participants in exchange for an entry fee and any subsequent re-buys. All players must receive an equal number of tournament chips for their entry fee. Tournament chips have no cash value and represent tournament points only. There is no limitation on the number of tournament chips that may be used for a bet except as otherwise determined by the cardroom operator. Tournament chips may never be redeemed for cash or for any other thing of value. The distribution of prizes and cash awards must be determined by the cardroom operator before entry fees are accepted. For purposes of tournament play only, the term "gross receipts" means the total amount received by the cardroom operator for all entry fees, player re-buys, and fees for participating in the tournament less the total amount paid to the winners or others as prizes.

(9) BOND REQUIRED.—The holder of a cardroom license shall be financially and otherwise responsible for the operation of the cardroom and for the conduct of any manager, dealer, or other employee involved in the operation of the cardroom. Prior to the issuance of a cardroom license, each applicant for such license shall provide evidence of a surety bond in the amount of \$50,000, payable to the state, furnished by a corporate surety authorized to do business in the state or evidence that the licensee's pari-mutuel bond required by s. 550.125 has been expanded to include the applicant's cardroom operation. The bond shall guarantee that the cardroom operator will redeem, for cash, all tokens or chips used in games. Such bond shall be kept in full force and effect by the operator during the term of the license.

(10) FEE FOR PARTICIPATION; PROHIBITIONS RELATING TO ECONOMIC INTEREST AND WINNINGS FOR CERTAIN GAMES.—

(a) The cardroom operator may charge a fee for the right to participate in games conducted at the cardroom. Such fee may be either a flat fee or hourly rate for the use of a seat at a table or a rake subject to the posted maximum amount but may not be based on the amount won by players. The rake-off, if any, must be made in an

obvious manner and placed in a designated rake area which is clearly visible to all players. Notice of the amount of the participation fee charged shall be posted in a conspicuous place in the cardroom and at each table at all times.

(b)1. A cardroom operator may not have any direct economic interest in a poker game played in a designated player manner, except for the rake.

2. A cardroom operator may not receive any portion of the winnings of a poker game played in a designated player manner.

(11) RECORDS AND REPORTS.—

(a) Each licensee operating a cardroom shall keep and maintain permanent daily records of its cardroom operation and shall maintain such records for a period of not less than 3 years. These records shall include all financial transactions and contain sufficient detail to determine compliance with the requirements of this section. All records shall be available for audit and inspection by the commission or other law enforcement agencies during the licensee's regular business hours. The information required in such records shall be determined by commission rule.

(b) Each licensee operating a cardroom shall file with the commission a report containing the required records of such cardroom operation. Such report shall be filed monthly by licensees. The required reports shall be submitted on forms prescribed by the commission and shall be due at the same time as the monthly pari-mutuel reports are due to the commission, and such reports shall contain any additional information deemed necessary by the commission, and the reports shall be deemed public records once filed.

(12) PROHIBITED ACTIVITIES.—

(a) No person licensed to operate a cardroom may conduct any banking game or any game not specifically authorized by this section or operate any game that violates the exclusivity provided in the gaming compact ratified, approved, and described in s. 285.710(3).

(b) No person under 18 years of age may be permitted to hold a cardroom or employee license, or engage in any game conducted therein.

(c) No electronic or mechanical devices, except mechanical card shufflers, may be used to conduct any authorized game in a cardroom.

(d) No cards, game components, or game implements may be used in playing an authorized game unless such has been furnished or provided to the players by the cardroom operator.

(13) TAXES AND OTHER PAYMENTS.—

(a) Each cardroom operator shall pay a tax to the state of 10 percent of the cardroom operation's monthly gross receipts.

(b) An admission tax equal to 15 percent of the admission charge for entrance to the licensee's cardroom facility, or 10 cents, whichever is greater, is imposed on each person entering the cardroom. This admission tax shall apply only if a separate admission fee is charged for entry to the cardroom facility. If a single admission fee is charged which authorizes entry to both or either the pari-mutuel facility and the cardroom facility, the admission tax shall be payable only once and shall be payable pursuant to chapter 550. The cardroom licensee shall be responsible for collecting the admission tax. An admission tax is imposed on any free passes or complimentary cards issued to guests by licensees in an amount equal to the tax imposed on the regular and usual admission charge for entrance to the licensee's cardroom facility. A cardroom licensee may issue tax-free passes to its officers, officials, and employees or other persons actually engaged in working at the cardroom, including accredited press representatives such as reporters and editors, and may also issue tax-free passes to other cardroom licensees for the use of their officers and officials. The licensee shall file with the commission a list of all persons to whom tax-free passes are issued.

(c) Payment of the admission tax and gross receipts tax imposed by this section shall be paid to the commission. The commission shall deposit these sums with the Chief Financial Officer, one-half being credited to the Pari-mutuel Wagering Trust Fund and one-half being credited to the General Revenue Fund. The cardroom licensee shall remit to the commission payment for the admission tax, the gross receipts tax, and the licensee fees. Such payments shall be remitted to the commission on the fifth day of each calendar month for taxes and fees imposed for the preceding month's cardroom activities. Licensees shall file a report under oath by the fifth day of



each calendar month for all taxes remitted during the preceding calendar month. Such report shall, under oath, indicate the total of all admissions, the cardroom activities for the preceding calendar month, and such other information as may be prescribed by the commission.

(d)1. Each jai alai permitholder that conducts live performances and operates a cardroom facility shall use at least 4 percent of such permitholder's cardroom monthly gross receipts to supplement jai alai prize money during the permitholder's next ensuing pari-mutuel meet.

2. Each thoroughbred permitholder or harness horse racing permitholder that conducts live performances and operates a cardroom facility shall use at least 50 percent of such permitholder's cardroom monthly net proceeds as follows: 47 percent to supplement purses and 3 percent to supplement breeders' awards during the permitholder's next ensuing racing meet.

3. No cardroom license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing and conducting live performances unless the applicant has on file with the commission a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses shall be subject to the terms of chapter 550.

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

(f) The cardroom shall be deemed an accessory use to a licensed pari-mutuel operation and, except as provided in chapter 550, a municipality, county, or political subdivision may not assess or collect any additional license tax, sales tax, or excise tax on such cardroom operation.

(g) All of the moneys deposited in the Pari-mutuel Wagering Trust Fund, except as set forth in paragraph (h), shall be utilized and distributed in the manner specified in s. 550.135(1). However, cardroom tax revenues shall be kept separate from pari-mutuel tax revenues and shall not be used for making the disbursement to counties provided in former s. 550.135(1).

(h) One-quarter of the moneys deposited into the Pari-mutuel Wagering Trust Fund pursuant to paragraph (g) shall, by October 1 of each year, be distributed to the local government that approved the cardroom under subsection (16); however, if two or more pari-mutuel racetracks are located within the same incorporated municipality, the cardroom funds shall be distributed to the municipality. If a pari-mutuel facility is situated in such a manner that it is located in more than one county, the site of the cardroom facility shall determine the location for purposes of disbursement of tax revenues under this paragraph. The commission shall, by September 1 of each year, determine the amount of taxes deposited into the Pari-mutuel Wagering Trust Fund pursuant to this section from each cardroom licensee; the location by county of each cardroom; whether the cardroom is located in the unincorporated area of the county or within an incorporated municipality; and the total amount to be distributed to each eligible county and municipality.

(14) SUSPENSION, REVOCATION, OR DENIAL OF LICENSE; FINE.—

(a) The commission may deny a license or the renewal thereof, or may suspend or revoke any license, when the applicant has: violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto; knowingly caused, aided, abetted, or conspired with another to cause any person to violate this section or any rules adopted pursuant thereto; or obtained a license or permit by fraud, misrepresentation, or concealment; or if the holder of such license or permit is no longer eligible under this section.

(b) If a pari-mutuel permitholder's pari-mutuel permit or license is suspended or revoked by the commission pursuant to chapter 550, the commission may, but is not required to, suspend or revoke such permitholder's

cardroom license. If a cardroom operator's license is suspended or revoked pursuant to this section, the commission may, but is not required to, suspend or revoke such licensee's pari-mutuel permit or license.

(c) Notwithstanding any other provision of this section, the commission may impose an administrative fine not to exceed \$1,000 for each violation against any person who has violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto.

**(15) CRIMINAL PENALTY; INJUNCTION.—**

(a)1. Any person who operates a cardroom without a valid license issued as provided in this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any licensee or permitholder who violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any licensee or permitholder who commits a second or subsequent violation of the same paragraph or subsection within a period of 3 years from the date of a prior conviction for a violation of such paragraph or subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The commission, any state attorney, the statewide prosecutor, or the Attorney General may apply for a temporary or permanent injunction restraining further violation of this section, and such injunction shall issue without bond.

**(16) LOCAL GOVERNMENT APPROVAL.—**

(a) The commission shall not issue any initial license under this section except upon proof in such form as the commission may prescribe that the local government where the applicant for such license desires to conduct cardroom gaming has voted to approve such activity by a majority vote of the governing body of the municipality or the governing body of the county if the facility is not located in a municipality.

(b) Notwithstanding any other provision of law, a municipality may prohibit the establishment of a cardroom on or after July 1, 2021, within its jurisdiction. This paragraph does not apply to a licensed pari-mutuel permitholder who held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021 in the municipality's jurisdiction or to a cardroom that was previously approved by the municipality.

**(17) CHANGE OF LOCATION; REFERENDUM.—**

(a) Notwithstanding any provisions of this section, no cardroom gaming license issued under this section shall be transferred, or reissued when such reissuance is in the nature of a transfer, so as to permit or authorize a licensee to change the location of the cardroom except upon proof in such form as the commission may prescribe that a referendum election has been held:

1. If the proposed new location is within the same county as the already licensed location, in the county where the licensee desires to conduct cardroom gaming and that a majority of the electors voting on the question in such election voted in favor of the transfer of such license. However, the commission shall transfer, without requirement of a referendum election, the cardroom license of any permitholder that relocated its permit pursuant to s. 550.0555.

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

(b) The expense of each referendum held under the provisions of this subsection shall be borne by the licensee requesting the transfer.

**History.**—s. 20, ch. 96-364; s. 26, ch. 2001-64; s. 1913, ch. 2003-261; s. 4, ch. 2003-295; s. 4, ch. 2005-288; s. 1, ch. 2007-130; s. 1, ch. 2007-163; s. 24, ch. 2009-170; ss. 4, 5, ch. 2010-29; s. 6, ch. 2021-268; s. 34, ch. 2021-271; s. 66, ch. 2022-4; s. 65, ch. 2022-7; ss. 50, 51, 99, ch. 2022-157; s. 10, ch. 2022-179; s. 2, ch. 2023-269.

**849.09 Lottery prohibited; exceptions.—**

(1) It is unlawful for any person in this state to:

(a) Set up, promote, or conduct any lottery for money or for anything of value;

(b) Dispose of any money or other property of any kind whatsoever by means of any lottery;

(c) Conduct any lottery drawing for the distribution of a prize or prizes by lot or chance, or advertise any such lottery scheme or device in any newspaper or by circulars, posters, pamphlets, radio, telegraph, telephone, or otherwise;

(d) Aid or assist in the setting up, promoting, or conducting of any lottery or lottery drawing, whether by writing, printing, or in any other manner whatsoever, or be interested in or connected in any way with any lottery or lottery drawing;

(e) Attempt to operate, conduct, or advertise any lottery scheme or device;

(f) Have in her or his possession any lottery wheel, implement, or device whatsoever for conducting any lottery or scheme for the disposal by lot or chance of anything of value;

(g) Sell, offer for sale, or transmit, in person or by mail or in any other manner whatsoever, any lottery ticket, coupon, or share, or any share in or fractional part of any lottery ticket, coupon, or share, whether such ticket, coupon, or share represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played;

(h) Have in her or his possession any lottery ticket, or any evidence of any share or right in any lottery ticket, or in any lottery scheme or device, whether such ticket or evidence of share or right represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played;

(i) Aid or assist in the sale, disposal, or procurement of any lottery ticket, coupon, or share, or any right to any drawing in a lottery;

(j) Have in her or his possession any lottery advertisement, circular, poster, or pamphlet, or any list or schedule of any lottery prizes, gifts, or drawings; or

(k) Have in her or his possession any so-called "run down sheets," tally sheets, or other papers, records, instruments, or paraphernalia designed for use, either directly or indirectly, in, or in connection with, the violation of the laws of this state prohibiting lotteries and gambling.

Provided, that nothing in this section shall prohibit participation in any nationally advertised contest, drawing, game or puzzle of skill or chance for a prize or prizes unless it can be construed as a lottery under this section; and, provided further, that this exemption for national contests shall not apply to any such contest based upon the outcome or results of any horserace, harness race, dograce, or jai alai game.

(2) Any person who is convicted of violating any of the provisions of paragraph (a), paragraph (b), paragraph (c), or paragraph (d) of subsection (1) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who is convicted of violating any of the provisions of paragraph (e), paragraph (f), paragraph (g), paragraph (i), or paragraph (k) of subsection (1) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who, having been convicted of violating any provision thereof, thereafter violates any provision thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The provisions of this section do not apply to bingo as provided for in s. 849.0931.

(4) Any person who is convicted of violating any of the provisions of paragraph (h) or paragraph (j) of subsection (1) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who, having been convicted of violating any provision thereof, thereafter violates any provision thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 4373, 1895; GS 3582; RGS 5509; CGL 7667; s. 1, ch. 26765, 1951; s. 1, ch. 67-72; s. 1, ch. 67-435; ss. 1, 2, ch. 69-91; s. 1064, ch. 71-136; s. 168, ch. 83-216; s. 4, ch. 91-206; ss. 4, 6, ch. 92-280; s. 1, ch. 93-160; s. 1359, ch. 97-102; s. 155, ch. 2007-5.

#### **849.091 Chain letters, pyramid clubs, etc., declared a lottery; prohibited; penalties.—**

(1) The organization of any chain letter club, pyramid club, or other group organized or brought together under any plan or device whereby fees or dues or anything of material value to be paid or given by members thereof are to be paid or given to any other member thereof, which plan or device includes any provision for the increase in such membership through a chain process of new members securing other new members and thereby advancing

themselves in the group to a position where such members in turn receive fees, dues, or things of material value from other members, is hereby declared to be a lottery, and whoever shall participate in any such lottery by becoming a member of, or affiliating with, any such group or organization or who shall solicit any person for membership or affiliation in any such group or organization commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A "pyramid sales scheme," which is any sales or marketing plan or operation whereby a person pays a consideration of any kind, or makes an investment of any kind, in excess of \$100 and acquires the opportunity to receive a benefit or thing of value which is not primarily contingent on the volume or quantity of goods, services, or other property sold in bona fide sales to consumers, and which is related to the inducement of additional persons, by himself or herself or others, regardless of number, to participate in the same sales or marketing plan or operation, is hereby declared to be a lottery, and whoever shall participate in any such lottery by becoming a member of or affiliating with, any such group or organization or who shall solicit any person for membership or affiliation in any such group or organization commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For purposes of this subsection, the term "consideration" and the term "investment" do not include the purchase of goods or services furnished at cost for use in making sales, but not for resale, or time and effort spent in the pursuit of sales or recruiting activities.

History.—s. 1, ch. 25096, 1949; s. 1065, ch. 71-136; s. 1, ch. 91-15; s. 215, ch. 91-224; s. 1360, ch. 97-102.

#### **849.0915 Referral selling.—**

(1) Referral selling, whereby the seller gives or offers a rebate or discount to the buyer as an inducement for a sale in consideration of the buyer's providing the seller with the names of prospective purchasers, is declared to be a lottery if earning the rebate or discount is contingent upon the occurrence of an event subsequent to the time the buyer agrees to buy.

(2) Any person conducting a lottery by referral selling is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) In addition to the penalty provided herein, the Attorney General and her or his assistants, the state attorneys and their assistants, and the Division of Consumer Services of the Department of Agriculture and Consumer Services are authorized to apply to the circuit court within their respective jurisdictions, and such court shall have jurisdiction, upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating the provisions of this section, whether or not there exists an adequate remedy at law, and such injunction shall issue without bond.

History.—s. 1, ch. 72-110; s. 34, ch. 73-334; s. 1361, ch. 97-102.

**849.092 Motor fuel retail business; certain activities permitted.—**The provisions of s. 849.09 shall not be construed to prohibit or prevent persons who are licensed to conduct business under s. 206.404, from giving away prizes to persons selected by lot, if such prizes are made on the following conditions:

(1) Such gifts are conducted as advertising and promotional undertakings, in good faith, solely for the purpose of advertising the goods, wares, merchandise and business of such licensee; and

(2) The principal business of such licensee is the business permitted to be licensed under s. 206.404; and

(3) No person to be eligible to receive such gift shall ever be required to:

(a) Pay any tangible consideration to such licensee in the form of money or other property or thing of value, or

(b) Purchase any goods, wares, merchandise or anything of value from such licensee.

(4) The person selected to receive any such gift or prize offered by any such licensee in connection with any such advertising or promotion is notified of his or her selection at his or her last known address. Newspapers, magazines, television and radio stations may, without violating any law, publish and broadcast advertising matter describing such advertising and promotional undertakings of such licensees which may contain instructions pursuant to which persons desiring to become eligible for such gifts or prizes may make their name and address known to such licensee.

(5) All brochures, advertisements, promotional material, and entry blanks promoting such undertakings shall contain a clause stating that residents of Florida are entitled to participate in such undertakings and are eligible to