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1 A bill to be entitled
2 An act relating to the prohibition of simulated
3 gambling devices; creating s. 849.162, F.S.; creating
4 the "Simulated Gambling Prohibition and Community
5 Protection Act"; providing legislative findings and
6 intent; providing definitions; prohibiting the use of
7 simulated gambling devices to conduct or promote game
8 promotions, drawings, and games of chance; providing
9 penalties; providing for construction; amending s.
10 849.0935, F.S., relating to drawings by chance offered
11 by nonprofit organizations; revising definitions;
12 revising conditions for exceptions to prohibitions on
13 lotteries; prohibiting the use of simulated gambling
14 devices or other devices operated by drawing entrants;
15 providing penalties; amending s. 849.094, F.S.;
16 revising definitions; providing conditions for
17 exceptions to prohibitions on lotteries; prohibiting
18 the use of simulated gambling devices or other devices
19 operated by game promotion entrants; limiting the
20 rulemaking authority of the Department of Agriculture
21 and Consumer Services; providing for construction;
22 providing penalties; providing that violations are
23 deceptive and unfair trade practices; amending s.
24 849.15, F.S.; prohibiting production, possession, or
25 distribution of any gambling apparatus; amending s.
26 849.16, F.S.; providing that described machines or
27 devices are subject to gambling provisions; amending
28 s. 895.02, F.S.; revising the definition of the term

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 "racketeering activity" to include violations of
30 specified provisions; providing for construction;
31 amending s. 721.111, F.S., relating to promotional
32 offers; conforming cross-references; reenacting s.
33 16.56(1)(a), 338.234(1), 655.50(3)(g), 849.19,
34 896.101(2)(g), and 905.34(3), F.S., relating to the
35 Office of Statewide Prosecution, the Florida Turnpike,
36 money laundering, seizure of property, the Florida
37 Money Laundering Act, and a statewide grand jury,
38 respectively, to incorporate changes made by the act
39 in references thereto; providing an effective date.
40

41 WHEREAS, the State of Florida has specifically prohibited
42 gambling in section 849.08, Florida Statutes, and

43 WHEREAS, section 849.0935, Florida Statutes is intended to
44 allow, without violation of the lottery law, specified
45 charitable or nonprofit organizations the opportunity to raise
46 funds to carry out their charitable or nonprofit purpose by
47 conducting an occasional drawing or raffle for prizes upon the
48 receipt of voluntary donations or contributions and was not
49 intended to provide a vehicle for the establishment of places of
50 ongoing gambling or gaming, and

51 WHEREAS, section 849.094, Florida Statutes is intended to
52 allow, without violation of the lottery law, for-profit
53 commercial enterprises to conduct a game promotion or
54 sweepstakes on a limited and occasional basis as a marketing
55 tool and incidental to substantial bona fide sales of consumer
56 products or services provided they comply with specified

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57 requirements and rules of the Department of Agriculture and
58 Consumer Services and was not intended to provide a vehicle for
59 the establishment of places of ongoing gambling or gaming, and

60 WHEREAS, section 849.0935, Florida Statutes and section
61 849.094, Florida Statutes regulate such activities and require
62 operation in a very specific manner deemed to be beneficial or
63 less harmful to the community and were not intended to allow for
64 large-scale ongoing operations of gaming or gambling, and

65 WHEREAS, due to the instant gratification provided, the use
66 of electronic gambling machines or devices for convenience
67 gambling is associated with higher levels and faster development
68 of compulsive gambling problems and should be tightly regulated
69 if and when permitted, and

70 WHEREAS, the State of Florida has specifically prohibited
71 any slot machine or device in section 849.15, Florida Statutes,
72 and has specifically defined slot machine or device in section
73 849.16, Florida Statutes, and

74 WHEREAS, various companies have developed electronic
75 machines and devices to simulate the experience of gambling
76 while attempting to avoid Florida's prohibition on slot machines
77 and devices through the pretextual conduct of charitable or
78 nonprofit drawings by chance or raffles or game promotions in
79 connection with merely incidental consumer sales or services,
80 such as sale of internet or telephone time, and

81 WHEREAS, operators are offering such simulated gambling at
82 ongoing establishments located in local communities and offering
83 extended hours and days of operation, attracting convenience

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84 gamblers and encouraging unplanned repeated convenience
 85 gambling, and

86 WHEREAS, such simulated gambling encourages the vice of
 87 compulsive gambling, even when purportedly used as a marketing
 88 or fundraising technique, by delivering the same instant
 89 gratification as other forms of electronic gambling, limiting
 90 the duration of game play to encourage continued play, promoting
 91 hopes to win large sums of money through electronic game play,
 92 and allowing players to wager more consideration in the hopes of
 93 achieving a larger financial award, and

94 WHEREAS, such simulated gambling create the same negative
 95 secondary effects in the community as other forms of gambling,
 96 even when purportedly used as a marketing or fundraising
 97 technique, including claims of compulsive gambling problems by
 98 players and excessive financial losses reported by players, NOW,
 99 THEREFORE,

100

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

102

103 Section 1. Section 849.162, Florida Statutes, is created
 104 to read:

105 849.162 Simulated gambling devices.-

106 (1) This section may be cited as the "Simulated Gambling
 107 Prohibition and Community Protection Act."

108 (2) The Legislature finds that there is a compelling state
 109 interest in addressing the deleterious effects of the
 110 proliferation of electronic machines and devices used for
 111 simulated gambling or gaming. The Legislature declares that it

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112 is the intent of this section to prohibit the use of such
113 devices.

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

115 (a) "Simulated gambling device" means a mechanically or
116 electronically operated machine, network, system, or device that
117 is intended to be used by an entrant to a game promotion,
118 sweepstakes, drawing, raffle, or any game of chance and that is
119 capable of displaying a simulated gambling display on a screen
120 or other mechanism.

121 (b) "Simulated gambling display" means visual or aural
122 information capable of being perceived by a user which takes the
123 form of actual or simulated gambling or gaming play. The term
124 includes, but is not limited to, displays depicting the
125 following types of games:

126 1. Reel games or simulations of reel games, such as slot
127 machines, eight liners, or pot-of-gold.

128 2. Card games or simulations of card games, such as video
129 poker.

130 3. Video games representing a game regulated by Florida
131 law, such as bingo, sweepstakes, game promotions, drawings, or
132 raffles.

133 4. Video games representing a game prohibited by Florida
134 law, such as craps, keno, and lotteries.

135 5. Any video game based on or involving the random or
136 chance matching of different pictures, words, numbers, or
137 symbols.

138 (c) "Gambling," "gaming," or "game" is not used to
139 incorporate any legal definition of the term and does not

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140 necessitate the presence of elements of consideration, chance,
141 or prize.

142 (4) Notwithstanding any other provision of law, a person
143 may not design, promote, or operate a simulated gambling device
144 to:

145 (a) Conduct a game promotion, sweepstakes, drawing,
146 raffle, or any game of chance, including the entry process or
147 the revealing of a prize or outcome; or

148 (b) Promote a game promotion, sweepstakes, drawing,
149 raffle, or any game of chance that is conducted through the use
150 of a simulated gambling display, including the entry process or
151 the revealing of a prize or outcome.

152 (5) A person who violates this section commits a felony of
153 the third degree, punishable as provided in s. 775.082, s.
154 775.083, or s. 775.084.

155 (6) A finding that a machine or device is a simulated
156 gambling device under this section does not preclude a finding
157 that it is also a slot machine or device under s. 849.16.

158 (7) It is the intent of this section to prohibit any
159 mechanism that seeks to avoid application of this section
160 through the use of any subterfuge or pretense whatsoever.

161 (8) Nothing in this section may be construed to prohibit:

162 (a) Activity that is lawfully conducted on Indian lands
163 pursuant to and in accordance with an approved Tribal-State
164 Gaming Compact.

165 (b) Activity that is lawfully conducted pursuant to s.
166 849.161.

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167 Section 2. Paragraph (a) of subsection (1), subsection
 168 (2), and subsection (7) of section 849.0935, Florida Statutes,
 169 are amended, and paragraphs (j) and (k) are added to subsection
 170 (4) of that section, to read:

171 849.0935 Charitable, nonprofit organizations; drawings by
 172 chance; required disclosures; unlawful acts and practices;
 173 penalties.—

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

175 (a) "Drawing by chance," ~~or~~ "drawing," or "raffle" means
 176 an enterprise in which, from the entries submitted by the public
 177 to the organization conducting the drawing, one or more entries
 178 are selected by chance to win a prize. The term "drawing" does
 179 not include those enterprises, commonly known as "game
 180 promotions," as defined by s. 849.094, "matching," "instant
 181 winner," or ~~"preselected sweepstakes,"~~ which involve the
 182 distribution of winning numbers, previously designated as such,
 183 to the public.

184 (2) The provisions of s. 849.09 shall not be construed to
 185 prohibit an organization qualified under 26 U.S.C. s. 501(c) (3),
 186 (4), (7), (8), (10), or (19) from conducting drawings by chance
 187 pursuant to the authority granted by this section, provided the
 188 organization has complied with all applicable provisions of
 189 chapter 496 and this section.

190 (4) It is unlawful for any organization which, pursuant to
 191 the authority granted by this section, promotes, operates, or
 192 conducts a drawing by chance:

193 (j) To design, engage in, promote, or conduct any drawing
 194 using a simulated gambling device, as defined by s. 849.162.

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195 (k) To design, engage in, promote, or conduct any drawing
 196 through the use of any mechanically or electronically operated
 197 machine, network, system, or device that is:

198 1. Owned, leased, or otherwise controlled by the
 199 organization or a partner, affiliate, subsidiary, contractor, or
 200 agent of the organization; and

201 2. Operated, played, or otherwise interacted with by an
 202 entrant to the drawing.

203 ~~(7)(a) Any organization which engages in any act or~~
 204 ~~practice in violation of this section is guilty of a misdemeanor~~
 205 ~~of the second degree, punishable as provided in s. 775.082 or s.~~
 206 ~~775.083. However,~~ Any organization or other person who sells or
 207 offers for sale in this state a ticket or entry blank for a
 208 raffle or other drawing by chance, without complying with the
 209 requirements of paragraph (3)(d), commits ~~is guilty of~~ a
 210 misdemeanor of the second degree, punishable by fine only as
 211 provided in s. 775.083.

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

215 (c) Any organization that engages in any other act or
 216 practice in violation of this section commits a misdemeanor of
 217 the second degree, punishable as provided in s. 775.082 or s.
 218 775.083.

219 Section 3. Section 849.094, Florida Statutes, is amended
 220 to read:

221 849.094 Game promotion in connection with sale of consumer
 222 products or services.—

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

224 (a) "Game promotion" means, but is not limited to, a
 225 contest, game of chance, sweepstakes, or gift enterprise,
 226 conducted by an operator within or throughout the state and
 227 other states in connection with and incidental to the sale of
 228 consumer products or services, and in which the elements of
 229 chance and prize are present. However, "game promotion" may
 230 ~~shall~~ not be construed to apply to bingo games conducted
 231 pursuant to s. 849.0931.

232 (b) "Operator" means any person, firm, corporation,
 233 enterprise, organization, or association or agent or employee
 234 thereof who promotes, operates, or conducts a game promotion,
 235 ~~except any charitable nonprofit organization.~~

236 (2) The provisions of s. 849.09 may not be construed to
 237 prohibit an operator from conducting a game promotion pursuant
 238 to this section, provided the operator has complied with the
 239 provisions of this section.

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

242 (4)(2) It is unlawful for any operator:

243 (a) To design, engage in, promote, or conduct such a game
 244 promotion through a simulated gambling device, as defined in s.
 245 849.162.

246 (b) To design, engage in, promote, or conduct such a game
 247 promotion through the use of any mechanically or electronically
 248 operated machine, network, system, or device that is:

249 1. Owned, leased, or otherwise controlled by the
 250 organization or the organization's partners, affiliates,

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251 subsidiaries, contractors, or agents; and

252 2. Operated, played, or otherwise interacted with by an
 253 entrant to the game promotion.

254 (c)~~(a)~~ To design, engage in, promote, or conduct such a
 255 game promotion, in connection with the promotion or sale of
 256 consumer products or services, wherein the winner may be
 257 predetermined or the game may be manipulated or rigged so as to:

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

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

262 (d)~~(b)~~ Arbitrarily to remove, disqualify, disallow, or
 263 reject any entry;

264 (e)~~(c)~~ To fail to award prizes offered;

265 (f)~~(d)~~ To print, publish, or circulate literature or
 266 advertising material used in connection with such game
 267 promotions which is false, deceptive, or misleading; or

268 (g)~~(e)~~ To require an entry fee, payment, or proof of
 269 purchase as a condition of entering a game promotion.

270 (5)~~(3)~~ The operator of a game promotion in which the total
 271 announced value of the prizes offered is greater than \$5,000
 272 shall file with the Department of Agriculture and Consumer
 273 Services a copy of the rules and regulations of the game
 274 promotion and a list of all prizes and prize categories offered
 275 at least 7 days before the commencement of the game promotion.
 276 Such rules and regulations may not thereafter be changed,
 277 modified, or altered. The operator of a game promotion shall
 278 conspicuously post the rules and regulations of such game

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279 promotion in each and every retail outlet or place where such
280 game promotion may be played or participated in by the public
281 and shall also publish the rules and regulations in all
282 advertising copy used in connection therewith. However, such
283 advertising copy need only include the material terms of the
284 rules and regulations if the advertising copy includes a website
285 address, a toll-free telephone number, or a mailing address
286 where the full rules and regulations may be viewed, heard, or
287 obtained for the full duration of the game promotion. Such
288 disclosures must be legible. Radio and television announcements
289 may indicate that the rules and regulations are available at
290 retail outlets or from the operator of the promotion. A
291 nonrefundable filing fee of \$100 shall accompany each filing and
292 shall be used to pay the costs incurred in administering and
293 enforcing the provisions of this section.

294 (6)~~(4)~~ (a) Every operator of such a game promotion in which
295 the total announced value of the prizes offered is greater than
296 \$5,000 shall establish a trust account, in a national or state-
297 chartered financial institution, with a balance sufficient to
298 pay or purchase the total value of all prizes offered. On a form
299 supplied by the Department of Agriculture and Consumer Services,
300 an official of the financial institution holding the trust
301 account shall set forth the dollar amount of the trust account,
302 the identity of the entity or individual establishing the trust
303 account, and the name of the game promotion for which the trust
304 account has been established. Such form shall be filed with the
305 Department of Agriculture and Consumer Services at least 7 days
306 in advance of the commencement of the game promotion. In lieu of

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307 establishing such trust account, the operator may obtain a
308 surety bond in an amount equivalent to the total value of all
309 prizes offered; and such bond shall be filed with the Department
310 of Agriculture and Consumer Services at least 7 days in advance
311 of the commencement of the game promotion.

312 1. The moneys held in the trust account may be withdrawn
313 in order to pay the prizes offered only upon certification to
314 the Department of Agriculture and Consumer Services of the name
315 of the winner or winners and the amount of the prize or prizes
316 and the value thereof.

317 2. If the operator of a game promotion has obtained a
318 surety bond in lieu of establishing a trust account, the amount
319 of the surety bond shall equal at all times the total amount of
320 the prizes offered.

321 (b) The Department of Agriculture and Consumer Services
322 may waive the provisions of this subsection for any operator who
323 has conducted game promotions in the state for not less than 5
324 consecutive years and who has not had any civil, criminal, or
325 administrative action instituted against him or her by the state
326 or an agency of the state for violation of this section within
327 that 5-year period. Such waiver may be revoked upon the
328 commission of a violation of this section by such operator, as
329 determined by the Department of Agriculture and Consumer
330 Services.

331 (7)~~(5)~~ Every operator of a game promotion in which the
332 total announced value of the prizes offered is greater than
333 \$5,000 shall provide the Department of Agriculture and Consumer
334 Services with a certified list of the names and addresses of all

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335 persons, whether from this state or from another state, who have
336 won prizes which have a value of more than \$25, the value of
337 such prizes, and the dates when the prizes were won within 60
338 days after such winners have been finally determined. The
339 operator shall provide a copy of the list of winners, without
340 charge, to any person who requests it. In lieu of the foregoing,
341 the operator of a game promotion may, at his or her option,
342 publish the same information about the winners in a Florida
343 newspaper of general circulation within 60 days after such
344 winners have been determined and shall provide to the Department
345 of Agriculture and Consumer Services a certified copy of the
346 publication containing the information about the winners. The
347 operator of a game promotion is not required to notify a winner
348 by mail or by telephone when the winner is already in possession
349 of a game card from which the winner can determine that he or
350 she has won a designated prize. All winning entries shall be
351 held by the operator for a period of 90 days after the close or
352 completion of the game.

353 (8)~~(6)~~ The Department of Agriculture and Consumer Services
354 shall keep the certified list of winners for a period of at
355 least 6 months after receipt of the certified list. The
356 department thereafter may dispose of all records and lists.

357 (9)~~(7)~~ No operator shall force, directly or indirectly, a
358 lessee, agent, or franchise dealer to purchase or participate in
359 any game promotion. For the purpose of this section, coercion or
360 force shall be presumed in these circumstances in which a course
361 of business extending over a period of 1 year or longer is
362 materially changed coincident with a failure or refusal of a

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363 lessee, agent, or franchise dealer to participate in such game
364 promotions. Such force or coercion shall further be presumed
365 when an operator advertises generally that game promotions are
366 available at its lessee dealers or agent dealers.

367 (10)-(8)(a) The Department of Agriculture and Consumer
368 Services shall have the power to promulgate such rules and
369 regulations respecting the operation of game promotions as it
370 may deem advisable. However, the department may not authorize
371 the operation or possession of a slot machine or device or any
372 other device that is otherwise prohibited from operation or
373 possession in the state and may not authorize game promotions to
374 be conducted through the use of any mechanically or
375 electronically operated machine, network, system, or device.

376 (b) Compliance with the rules of the department does not
377 authorize and is not a defense to a charge of possession of a
378 slot machine or device or any other device or a violation of any
379 other law.

380 (c)-(b) Whenever the Department of Agriculture and Consumer
381 Services or the Department of Legal Affairs has reason to
382 believe that a game promotion is being operated in violation of
383 this section, it may bring an action in the circuit court of any
384 judicial circuit in which the game promotion is being operated
385 in the name and on behalf of the people of the state against any
386 operator thereof to enjoin the continued operation of such game
387 promotion anywhere within the state.

388 (11)-(9)(a) Any person, firm, or corporation, or
389 association or agent or employee thereof, who engages in any
390 acts or practices stated in this section to be unlawful, or who

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391 violates any of the rules and regulations made pursuant to this
 392 section, commits ~~is guilty of~~ a misdemeanor of the second
 393 degree, punishable as provided in s. 775.082 or s. 775.083.

394 (b) Any person, firm, or corporation, or association or
 395 agent or employee thereof, who violates paragraph (4) (f) or
 396 paragraph (4) (g) commits a felony of the third degree,
 397 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

405 (12) A violation of this section, or soliciting another to
 406 do an act which violates this section, is a deceptive and unfair
 407 trade practice.

408 ~~(13)~~ (10) This section does not apply to actions or
 409 transactions regulated by the Department of Business and
 410 Professional Regulation or to the activities of nonprofit
 411 organizations or to any other organization engaged in any
 412 enterprise other than the sale of consumer products or services.
 413 Subsections ~~(3), (4),~~ (5), (6), ~~and~~ (7), (8), and (9) and
 414 paragraph ~~(10)~~ (8) (a) and any of the rules made pursuant thereto
 415 do not apply to television or radio broadcasting companies
 416 licensed by the Federal Communications Commission.

417 (14) Nothing in this section shall prohibit a corporation
 418 or its wholly owned subsidiaries, or a franchisee association or

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419 cooperative thereof, that is registered under the federal
 420 Securities Exchange Act of 1934 and has total assets of not less
 421 than \$25 million from conducting a game promotion which can be
 422 played on an electronic communication device, including, but not
 423 limited to, a computer or a cellular telephone.

424 Section 4. Subsection (1) of section 849.15, Florida
 425 Statutes, is amended to read:

426 849.15 Manufacture, sale, possession, etc., of coin-
 427 operated devices prohibited.—

428 (1) It is unlawful:

429 (a) To manufacture, own, store, keep, possess, sell, rent,
 430 lease, let on shares, lend or give away, transport, or expose
 431 for sale or lease, or to offer to sell, rent, lease, let on
 432 shares, lend or give away, or permit the operation of, or for
 433 any person to permit to be placed, maintained, or used or kept
 434 in any room, space, or building owned, leased, or occupied by
 435 the person or under the person's management or control, any slot
 436 machine or device or any part thereof, or other gambling
 437 apparatus or any part thereof that is otherwise prohibited from
 438 operation or possession in the state; or

439 (b) To make or to permit to be made with any person any
 440 agreement with reference to any slot machine or device, pursuant
 441 to which the user thereof, as a result of any element of chance
 442 or other outcome unpredictable to him or her, may become
 443 entitled to receive any money, credit, allowance, or thing of
 444 value or additional chance or right to use such machine or
 445 device, or to receive any check, slug, token, or memorandum
 446 entitling the holder to receive any money, credit, allowance, or

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447 thing of value.

448 Section 5. Subsection (1) of section 849.16, Florida
 449 Statutes, is amended to read:

450 849.16 Machines or devices which come within provisions of
 451 law defined.—

452 (1) Any machine or device or system or network of
 453 computers or other devices is a slot machine or device within
 454 the provisions of this chapter if it is one that is adapted for
 455 use in such a way that, as a result of the insertion of any
 456 piece of money, coin, code, account number, credit, or other
 457 object or method of activation, such machine, ~~or~~ device, or
 458 system or network of computers or other devices is caused to
 459 operate or may be operated, whether directly or as the result of
 460 indirect remote activation, and if the user, by reason of any
 461 element of chance or of any other outcome of such operation
 462 unpredictable by him or her, may:

463 (a) Receive or become entitled to receive any piece of
 464 money, credit, allowance, or thing of value, or any check, slug,
 465 token, or memorandum, whether of value or otherwise, which may
 466 be exchanged for any money, credit, allowance, or thing of value
 467 or which may be given in trade; or

468 (b) Secure additional chances or rights to use such
 469 machine, apparatus, or device, even though it may, in addition
 470 to any element of chance or unpredictable outcome of such
 471 operation, also sell, deliver, or present some merchandise,
 472 indication of weight, entertainment, or other thing of value.

473 Section 6. Paragraph (a) of subsection (1) of section
 474 895.02, Florida Statutes, is amended to read:

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475 895.02 Definitions.—As used in ss. 895.01-895.08, the
 476 term:

477 (1) "Racketeering activity" means to commit, to attempt to
 478 commit, to conspire to commit, or to solicit, coerce, or
 479 intimidate another person to commit:

480 (a) Any crime that is chargeable by petition, indictment,
 481 or information under the following provisions of the Florida
 482 Statutes:

483 1. Section 210.18, relating to evasion of payment of
 484 cigarette taxes.

485 2. Section 316.1935, relating to fleeing or attempting to
 486 elude a law enforcement officer and aggravated fleeing or
 487 eluding.

488 3. Section 403.727(3)(b), relating to environmental
 489 control.

490 4. Section 409.920 or s. 409.9201, relating to Medicaid
 491 fraud.

492 5. Section 414.39, relating to public assistance fraud.

493 6. Section 440.105 or s. 440.106, relating to workers'
 494 compensation.

495 7. Section 443.071(4), relating to creation of a
 496 fictitious employer scheme to commit unemployment compensation
 497 fraud.

498 8. Section 465.0161, relating to distribution of medicinal
 499 drugs without a permit as an Internet pharmacy.

500 9. Section 499.0051, relating to crimes involving
 501 contraband and adulterated drugs.

502 10. Part IV of chapter 501, relating to telemarketing.

- 503 | 11. Chapter 517, relating to sale of securities and
- 504 | investor protection.
- 505 | 12. Section 550.235 or s. 550.3551, relating to dogracing
- 506 | and horseracing.
- 507 | 13. Chapter 550, relating to jai alai frontons.
- 508 | 14. Section 551.109, relating to slot machine gaming.
- 509 | 15. Chapter 552, relating to the manufacture,
- 510 | distribution, and use of explosives.
- 511 | 16. Chapter 560, relating to money transmitters, if the
- 512 | violation is punishable as a felony.
- 513 | 17. Chapter 562, relating to beverage law enforcement.
- 514 | 18. Section 624.401, relating to transacting insurance
- 515 | without a certificate of authority, s. 624.437(4)(c)1., relating
- 516 | to operating an unauthorized multiple-employer welfare
- 517 | arrangement, or s. 626.902(1)(b), relating to representing or
- 518 | aiding an unauthorized insurer.
- 519 | 19. Section 655.50, relating to reports of currency
- 520 | transactions, when such violation is punishable as a felony.
- 521 | 20. Chapter 687, relating to interest and usurious
- 522 | practices.
- 523 | 21. Section 721.08, s. 721.09, or s. 721.13, relating to
- 524 | real estate timeshare plans.
- 525 | 22. Section 775.13(5)(b), relating to registration of
- 526 | persons found to have committed any offense for the purpose of
- 527 | benefiting, promoting, or furthering the interests of a criminal
- 528 | gang.
- 529 | 23. Section 777.03, relating to commission of crimes by
- 530 | accessories after the fact.

- 531 24. Chapter 782, relating to homicide.
- 532 25. Chapter 784, relating to assault and battery.
- 533 26. Chapter 787, relating to kidnapping or human
- 534 trafficking.
- 535 27. Chapter 790, relating to weapons and firearms.
- 536 28. Chapter 794, relating to sexual battery, but only if
- 537 such crime was committed with the intent to benefit, promote, or
- 538 further the interests of a criminal gang, or for the purpose of
- 539 increasing a criminal gang member's own standing or position
- 540 within a criminal gang.
- 541 29. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
- 542 796.05, or s. 796.07, relating to prostitution and sex
- 543 trafficking.
- 544 30. Chapter 806, relating to arson and criminal mischief.
- 545 31. Chapter 810, relating to burglary and trespass.
- 546 32. Chapter 812, relating to theft, robbery, and related
- 547 crimes.
- 548 33. Chapter 815, relating to computer-related crimes.
- 549 34. Chapter 817, relating to fraudulent practices, false
- 550 pretenses, fraud generally, and credit card crimes.
- 551 35. Chapter 825, relating to abuse, neglect, or
- 552 exploitation of an elderly person or disabled adult.
- 553 36. Section 827.071, relating to commercial sexual
- 554 exploitation of children.
- 555 37. Chapter 831, relating to forgery and counterfeiting.
- 556 38. Chapter 832, relating to issuance of worthless checks
- 557 and drafts.
- 558 39. Section 836.05, relating to extortion.

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- 559 40. Chapter 837, relating to perjury.
- 560 41. Chapter 838, relating to bribery and misuse of public
561 office.
- 562 42. Chapter 843, relating to obstruction of justice.
- 563 43. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
564 s. 847.07, relating to obscene literature and profanity.
- 565 44. Section 849.09, s. 849.14, s. 849.15, s. 849.162, s.
566 849.23, or s. 849.25, relating to gambling.
- 567 45. Chapter 874, relating to criminal gangs.
- 568 46. Chapter 893, relating to drug abuse prevention and
569 control.
- 570 47. Chapter 896, relating to offenses related to financial
571 transactions.
- 572 48. Sections 914.22 and 914.23, relating to tampering with
573 or harassing a witness, victim, or informant, and retaliation
574 against a witness, victim, or informant.
- 575 49. Sections 918.12 and 918.13, relating to tampering with
576 jurors and evidence.
- 577 Section 7. Nothing in this act may be construed to
578 authorize the possession or operation of any machine or device
579 that is prohibited under any other provision of law.
- 580 Section 8. Subsection (2) of section 721.111, Florida
581 Statutes, is amended to read:
- 582 721.111 Prize and gift promotional offers.—
- 583 (2) A game promotion, such as a contest of chance, gift
584 enterprise, or sweepstakes, in which the elements of chance and
585 prize are present may not be used in connection with the
586 offering or sale of timeshare interests, except for drawings, as

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587 that term is defined in s. 849.0935(1)(a), in which no more than
 588 26 prizes are promoted and in which all promoted prizes are
 589 actually awarded. All such drawings must meet all requirements
 590 of this chapter and of ss. 849.092 and 849.094(1), (4) ~~(2)~~, and
 591 (9) ~~(7)~~.

592 Section 9. For the purpose of incorporating the amendment
 593 made by this act to section 895.02, Florida Statutes, in a
 594 reference thereto, paragraph (a) of subsection (1) of section
 595 16.56, Florida Statutes, is reenacted to read:

596 16.56 Office of Statewide Prosecution.—

597 (1) There is created in the Department of Legal Affairs an
 598 Office of Statewide Prosecution. The office shall be a separate
 599 "budget entity" as that term is defined in chapter 216. The
 600 office may:

601 (a) Investigate and prosecute the offenses of:

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

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

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

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- 615 | reason;
- 616 | 4. Any violation of the provisions of the Florida Anti-
- 617 | Fencing Act;
- 618 | 5. Any violation of the provisions of the Florida
- 619 | Antitrust Act of 1980, as amended;
- 620 | 6. Any crime involving, or resulting in, fraud or deceit
- 621 | upon any person;
- 622 | 7. Any violation of s. 847.0135, relating to computer
- 623 | pornography and child exploitation prevention, or any offense
- 624 | related to a violation of s. 847.0135 or any violation of
- 625 | chapter 827 where the crime is facilitated by or connected to
- 626 | the use of the Internet or any device capable of electronic data
- 627 | storage or transmission;
- 628 | 8. Any violation of the provisions of chapter 815;
- 629 | 9. Any criminal violation of part I of chapter 499;
- 630 | 10. Any violation of the provisions of the Florida Motor
- 631 | Fuel Tax Relief Act of 2004;
- 632 | 11. Any criminal violation of s. 409.920 or s. 409.9201;
- 633 | 12. Any crime involving voter registration, voting, or
- 634 | candidate or issue petition activities;
- 635 | 13. Any criminal violation of the Florida Money Laundering
- 636 | Act; or
- 637 | 14. Any criminal violation of the Florida Securities and
- 638 | Investor Protection Act; or any attempt, solicitation, or
- 639 | conspiracy to commit any of the crimes specifically enumerated
- 640 | above. The office shall have such power only when any such
- 641 | offense is occurring, or has occurred, in two or more judicial
- 642 | circuits as part of a related transaction, or when any such

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643 offense is connected with an organized criminal conspiracy
 644 affecting two or more judicial circuits. Informations or
 645 indictments charging such offenses shall contain general
 646 allegations stating the judicial circuits and counties in which
 647 crimes are alleged to have occurred or the judicial circuits and
 648 counties in which crimes affecting such circuits or counties are
 649 alleged to have been connected with an organized criminal
 650 conspiracy.

651 Section 10. For the purpose of incorporating the amendment
 652 made by this act to section 849.16, Florida Statutes, in a
 653 reference thereto, subsection (1) of section 338.234, Florida
 654 Statutes, is reenacted to read:

655 338.234 Granting concessions or selling along the turnpike
 656 system; immunity from taxation.—

657 (1) The department may enter into contracts or licenses
 658 with any person for the sale of services or products or business
 659 opportunities on the turnpike system, or the turnpike enterprise
 660 may sell services, products, or business opportunities on the
 661 turnpike system, which benefit the traveling public or provide
 662 additional revenue to the turnpike system. Services, business
 663 opportunities, and products authorized to be sold include, but
 664 are not limited to, motor fuel, vehicle towing, and vehicle
 665 maintenance services; food with attendant nonalcoholic
 666 beverages; lodging, meeting rooms, and other business services
 667 opportunities; advertising and other promotional opportunities,
 668 which advertising and promotions must be consistent with the
 669 dignity and integrity of the state; state lottery tickets sold
 670 by authorized retailers; games and amusements that operate by

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671 the application of skill, not including games of chance as
 672 defined in s. 849.16 or other illegal gambling games; Florida
 673 citrus, goods promoting the state, or handmade goods produced
 674 within the state; and travel information, tickets, reservations,
 675 or other related services. However, the department, pursuant to
 676 the grants of authority to the turnpike enterprise under this
 677 section, shall not exercise the power of eminent domain solely
 678 for the purpose of acquiring real property in order to provide
 679 business services or opportunities, such as lodging and meeting-
 680 room space on the turnpike system.

681 Section 11. For the purpose of incorporating the amendment
 682 made by this act to section 895.02, Florida Statutes, in a
 683 reference thereto, paragraph (g) of subsection (3) of section
 684 655.50, Florida Statutes, is reenacted to read:

685 655.50 Florida Control of Money Laundering in Financial
 686 Institutions Act; reports of transactions involving currency or
 687 monetary instruments; when required; purpose; definitions;
 688 penalties.—

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

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

692 Section 12. For the purpose of incorporating the amendment
 693 made by this act to section 849.16, Florida Statutes, in a
 694 reference thereto, section 849.19, Florida Statutes, is
 695 reenacted to read:

696 849.19 Property rights in confiscated machine.—The right
 697 of property in and to any machine, apparatus or device as
 698 defined in s. 849.16 and to all money and other things of value

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699 | therein, is declared not to exist in any person, and the same
 700 | shall be forfeited and such money or other things of value shall
 701 | be forfeited to the county in which the seizure was made and
 702 | shall be delivered forthwith to the clerk of the circuit court
 703 | and shall by her or him be placed in the fine and forfeiture
 704 | fund of said county.

705 | Section 13. For the purpose of incorporating the amendment
 706 | made by this act to section 895.02, Florida Statutes, in a
 707 | reference thereto, paragraph (g) of subsection (2) of section
 708 | 896.101, Florida Statutes, is reenacted to read:

709 | 896.101 Florida Money Laundering Act; definitions;
 710 | penalties; injunctions; seizure warrants; immunity.—

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

712 | (g) "Specified unlawful activity" means any "racketeering
 713 | activity" as defined in s. 895.02.

714 | Section 14. For the purpose of incorporating the amendment
 715 | made by this act to section 895.02, Florida Statutes, in a
 716 | reference thereto, subsection (3) of section 905.34, Florida
 717 | Statutes, is reenacted to read:

718 | 905.34 Powers and duties; law applicable.—The jurisdiction
 719 | of a statewide grand jury impaneled under this chapter shall
 720 | extend throughout the state. The subject matter jurisdiction of
 721 | the statewide grand jury shall be limited to the offenses of:

722 | (3) Any violation of the provisions of the Florida RICO
 723 | (Racketeer Influenced and Corrupt Organization) Act, including
 724 | any offense listed in the definition of racketeering activity in
 725 | s. 895.02(1)(a), providing such listed offense is investigated
 726 | in connection with a violation of s. 895.03 and is charged in a

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727 separate count of an information or indictment containing a
728 count charging a violation of s. 895.03, the prosecution of
729 which listed offense may continue independently if the
730 prosecution of the violation of s. 895.03 is terminated for any
731 reason; or any attempt, solicitation, or conspiracy to commit
732 any violation of the crimes specifically enumerated above, when
733 any such offense is occurring, or has occurred, in two or more
734 judicial circuits as part of a related transaction or when any
735 such offense is connected with an organized criminal conspiracy
736 affecting two or more judicial circuits. The statewide grand
737 jury may return indictments and presentments irrespective of the
738 county or judicial circuit where the offense is committed or
739 triable. If an indictment is returned, it shall be certified and
740 transferred for trial to the county where the offense was
741 committed. The powers and duties of, and law applicable to,
742 county grand juries shall apply to a statewide grand jury except
743 when such powers, duties, and law are inconsistent with the
744 provisions of ss. 905.31-905.40.

745 Section 15. This act shall take effect upon becoming a
746 law.