

# In Florida, Does The Tail Still Wag The Dog?



## Is Florida Sweepstakes Law Irrelevant As Gambling Proliferates?

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The purpose of this material is to alert you to new and developing legal and business issues. The contents are not intended to provide legal advice to specific cases or particular legal matters. We expect you will want to consult directly with your own legal counsel if you feel an issue discussed affects you.

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# BACKGROUND

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Once again the Florida legislature has amended the State's sweepstakes registration law. While the new amendment results in the simplification of some aspects of Florida law, the continuing detailed regulation of the Florida sweepstakes process seems unnecessary in light of the proliferation of many forms of "real" gambling in the State.

# FLORIDA SWEEPSTAKES LAW AMENDMENT

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For many years, the Florida game promotion statute has required the game sponsor to include the full official rules in print advertising if the total announced value of the prizes was more than \$5,000. As a practical matter, this meant sponsors could not advertise a national sweepstakes promotion in Florida without developing special materials for Florida containing the full official rules.

Now, effective this month, it is no longer as difficult to comply with Florida law. As amended, the Florida game promotion law now provides that the game sponsor only need publish the "material" rules in advertising copy as long as the copy announces the availability of the full official rules at a specified website address, toll free phone number or mailing address. The meaning of "material" rules, however, remains to be announced by state regulators.

# **FLORIDA SWEEPSTAKES LAW AMENDMENT (continued)**

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**While the amendment relaxes the requirement that the full rules of a sweeps be contained in advertising, the state still retains one of the nation's most restrictive promotion regulatory systems.**

**That regulatory system was born from a belief that prize promotions allow business “to prey” on the public's desire to gamble. Legislators also argued that firms that sponsor prize promotions can exaggerate the odds of winning through subtle means or outright deception. The desire to control these two components, gambling and misrepresentation, forms the intellectual basis for regulation.**

**The degree to which regulation on this scale should continue is questionable given Floridians current access to more “hard” gambling alternatives than residents of nearly every other state.**

# PARI-MUTUAL GAMBLING

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For many decades, pari-mutual wagering has been a staple of Florida's gaming scene. Today, twenty-five greyhound tracks, thoroughbred tracks, harness tracks and jai-alai frontons currently operate in Florida.

# LOTTERY

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**Nearly 20 years ago, Florida voters approved a constitutional amendment by a two-to-one margin authorizing the State to operate a lottery. In 2001, the State sold more than \$2.3 billion in net ticket sales, and between 1999 and 2002 the Florida Lottery transferred over \$12 billion to the Florida Educational Enhancement Trust Fund. The Florida Lottery reached the \$12 billion milestone faster than any other state Lottery.**

# CARD ROOMS

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**In 1995, the Florida legislature passed a new law permitting operation of low-stake (\$10 maximum pots) “card rooms” at pari-mutual facilities in the State. In 2002, the Florida legislature increased the pot limits and expanded hours of operations for card rooms. In 2003, lawmakers increased pot limits to \$200. Today, visitors to Florida card rooms play 7-Card Stud, Texas Hold ‘Em, Omaha, 7-Card Stud Hi-Lo, Omaha Hi-Lo and various other card games.**

# INDIAN CASINOS

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**There are five Indian “casinos” currently operating in Florida. The Seminole Tribe operates casino gambling in Tampa, Hollywood, Immokalee and Brighton; the Miccosukee operates the fifth casino west of Miami at Everglades.**

# CRUISES-TO-NOWHERE

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**Cruises-to-nowhere operate offshore gambling platforms from almost every port in Florida. One of the newest is a 450-foot converted cruise liner operated out of the Port of St. Petersburg, which is supported by three high-speed catamarans which ferry gamblers to and from the ship anchored offshore.**

# **FLORIDA LAWMAKERS & SWEEPSTAKES REGULATION: INTELLECTUALLY CONSISTENT OR INCONSISTENT?**

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**The proliferation of gambling in Florida begs a number of important policy questions in view of continued strict regulation of prize promotions:**

**Are Florida lawmakers simply playing games with sweepstakes regulation?**

**Does the current regulatory scheme make sense in light of twenty years of expanding gaming in the State?**

**Is Florida's obsession with sweepstakes intellectually consistent with the State's overall gaming policy?**