

2. May consider as a defense the fact that the person seeking enforcement no longer continues in business in the area or line of business that is the subject of the action to enforce the restrictive covenant only if such discontinuance of business is not the result of a violation of the restriction.

3. Shall consider all other pertinent legal and equitable defenses.

4. Shall consider the effect of enforcement upon the public health, safety, and welfare.

(h) A court shall construe a restrictive covenant in favor of providing reasonable protection to all legitimate business interests established by the person seeking enforcement. A court shall not employ any rule of contract construction that requires the court to construe a restrictive covenant narrowly, against the restraint, or against the drafter of the contract.

(i) No court may refuse enforcement of an otherwise enforceable restrictive covenant on the ground that the contract violates public policy unless such public policy is articulated specifically by the court and the court finds that the specified public policy requirements substantially outweigh the need to protect the legitimate business interest or interests established by the person seeking enforcement of the restraint.

(j) A court shall enforce a restrictive covenant by any appropriate and effective remedy, including, but not limited to, temporary and permanent injunctions. The violation of an enforceable restrictive covenant creates a presumption of irreparable injury to the person seeking enforcement of a restrictive covenant. No temporary injunction shall be entered unless the person seeking enforcement of a restrictive covenant gives a proper bond, and the court shall not enforce any contractual provision waiving the requirement of an injunction bond or limiting the amount of such bond.

(k) In the absence of a contractual provision authorizing an award of attorney's fees and costs to the prevailing party, a court may award attorney's fees and costs to the prevailing party in any action seeking enforcement of, or challenging the enforceability of, a restrictive covenant. A court shall not enforce any contractual provision limiting the court's authority under this section.

(2) Nothing in this section shall be construed or interpreted to legalize or make enforceable any restraint of trade or commerce otherwise illegal or unenforceable under the laws of the United States or of this state.

(3) This act shall apply prospectively, and it shall not apply in actions determining the enforceability of restrictive covenants entered into before July 1, 1996.

History.—ss. 1, 3, ch. 96-257.

Note.—Section 4, ch. 96-257, provides that "[t]his act shall take effect July 1, 1996, and shall apply only to contracts entered into on or after such date."

CHAPTER 548

PUGILISTIC EXHIBITIONS

548.077 State Athletic Commission; collection and disposition of moneys.

548.077 State Athletic Commission; collection and disposition of moneys.—All fees, fines, forfeitures, and other moneys collected under the provisions of this chapter shall be paid by the commission to the State Treasurer who, after the expenses of the commission are paid, shall deposit them in the Professional Regulation Trust Fund to be used for the administration and operation of the commission and to enforce the laws and rules under its jurisdiction. In the event the unexpended balance of such moneys collected under the provisions of this chapter exceeds \$250,000, any excess of that amount shall be deposited in the General Revenue Fund.

History.—ss. 2, 4, ch. 84-246; s. 1, ch. 88-132; s. 4, ch. 91-429; s. 43, ch. 96-418.

CHAPTER 550

PARI-MUTUEL WAGERING

- 550.002 Definitions.
- 550.01215 License application; periods of operation; bond, conversion of permit.
- 550.0251 The powers and duties of the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.
- 550.0351 Charity racing days.
- 550.0951 Payment of daily license fee and taxes.
- 550.09511 Jai alai taxes; abandoned interest in a permit for nonpayment of taxes.
- 550.09514 Greyhound dogracing taxes; purse requirements.
- 550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.
- 550.135 Division of moneys derived under this law.
- 550.24055 Use of controlled substances or alcohol prohibited; testing of certain occupational licensees; penalty; evidence of test or action taken and admissibility for criminal prosecution limited.
- 550.2415 Racing of animals under certain conditions prohibited; penalties; exceptions.
- 550.2625 Horseracing; minimum purse requirement, Florida breeders' and owners' awards.
- 550.26352 Breeders' Cup Meet; pools authorized; conflicts; taxes; credits; transmission of races; rules; application.
- 550.3551 Transmission of racing and jai alai information; commingling of pari-mutuel pools.
- 550.475 Lease of pari-mutuel facilities by pari-mutuel permitholders.
- 550.5251 Florida thoroughbred racing; certain permits; operating days.
- 550.615 Intertrack wagering.
- 550.6305 Intertrack wagering; guest track payments; accounting rules.
- 550.6335 Surcharge.
- 550.70 Jai alai general provisions; chief court judges required; extension of time to construct fronton; amateur jai alai contests permitted under certain conditions; playing days' limitations; locking of pari-mutuel machines.