



2018 ANNUAL REPORT

New York State Assembly

Carl E. Heastie

Speaker

Committee on
Racing & Wagering

J. Gary Pretlow

Chair





THE ASSEMBLY
STATE OF NEW YORK
ALBANY

J. Gary Pretlow
Assemblyman 89th District

PLEASE REPLY TO:
845 Legislative Office Building
Albany, New York 12248

CHAIR
Racing & Wagering

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Assembly Steering Committee

January 18, 2019

The Honorable Carl E. Heastie
Speaker of the Assembly
Room 932
Legislative Office Building
Albany, NY 12248

Dear Mr. Speaker:

As Chairman of the Assembly Standing Committee on Racing and Wagering, I am pleased to submit to you the Committee's 2018 Annual Report. Each year, the Committee is tasked with finding new and improved ways to enhance the regulatory structure, which oversees all racing and gaming activities across the State of New York, to better support underlying industries and to ensure schools continue to benefit from these sectors. The following report is a summary of significant actions taken by the Committee and the Assembly during the 2018 Legislative Session to help achieve these goals.

During the 2018 Legislative Session, the Committee reported on several bills that would provide continued support to the horse racing, horse breeding, and gaming industries. As a result, legislation was enacted into law to combat problem gambling, create an advisory committee on equine drug testing and research, regulate electronic bell jar machines, and for the continuation and expansion of provisions on the New York Jockey Injury Compensation Fund to secure worker's compensation insurance. The Committee also advanced legislation to prohibit retailers from confiscating, removing or destroying lottery tickets prior to the conclusion of said game.

In addition, this year the Supreme Court of the United States ruled on *Murphy v. National Collegiate Athletic Association*, deeming the Professional and Amateur Sports Protection Act of 1992 (PASPA) unconstitutional as it violates the anti-commandeering doctrine. PASPA previously defined sports betting as illegal with only a few exceptions. With the Court's ruling, states have been able to begin work on their own legislation regarding sports wagering. In light

of this change and recent legalization in New Jersey, the Committee is looking forward to further deliberation regarding sports wagering here in New York during upcoming sessions.

I would like to take this opportunity to thank the members of the Assembly Standing Committee on Racing and Wagering for their input and support during the 2018 Legislative Session. I would also like to thank you, Mr. Speaker, for your continued support. The Committee members and I look forward to working with you during the upcoming 2019 Legislative Session to continue to strengthen New York State's great racing, wagering and gaming infrastructure.

Warm Personal Regards,

A handwritten signature in black ink that reads "James Gary Pretlow". The signature is written in a cursive style with a large initial 'J' and a long, sweeping underline.

J. Gary Pretlow

Chair, Committee on Racing and Wagering

**2018 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON RACING AND WAGERING**

J. Gary Pretlow, Chair

Committee Members

Majority

Aileen M. Gunther
Michael G. Miller
Michaëlle Solages
Carrie Woerner
Angelo Santabarbara
Stacey C. Pheffer Amato
Clyde Vanel

Minority

Andrew Garbarino
Peter Lawrence
Stephen Hawley

Staff

Giovanni Warren, *Assistant Secretary for Program and Policy*
Sarah Klein, *Associate Counsel*
Matt Richmond, *Analyst*
Emily Sischo, *Committee Assistant*
Nicole VanAuken, *Program and Counsel Secretary*
Kaitesi Rama-Munroe, *Committee Clerk*

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I. INTRODUCTION

The New York State Assembly Standing Committee on Racing and Wagering has jurisdiction over legislation affecting all activities related to horse racing and various forms of gaming across New York State. Its purview includes the New York State Racing, Pari-Mutuel Wagering and Breeding Law; as well as portions of the New York State Tax Law and the New York State General Municipal Law.

The New York State Gaming Commission is responsible for regulating all aspects of racing and gaming activity within the State, including pari-mutuel wagering, Class III Indian Gaming, the New York Lottery, video lottery gaming, charitable gaming, commercial casino gambling, and interactive fantasy sports. The New York State Gaming Commission is comprised of four divisions:

- The *Division of Lottery* is responsible for the operation and administration of the New York Lottery for education, and for all aspects of promotional activities related to video lottery gaming.
- The *Charitable Gaming Division* is responsible for licensing charitable organizations and verifying the lawful disbursement of proceeds from games of chance such as bingo, bell jar tickets, Las Vegas nights and raffles.
- The *Gaming Division* is responsible for the appropriate administration, regulation and oversight of commercial casino gambling, video lottery gaming, and Indian gaming on tribal land as defined by lawful Tribal-State compacts established pursuant to the federal Indian Gaming Regulatory Act of 1988.
- The *Horse Racing and Pari-Mutuel Wagering Division* is responsible for the supervision, regulation and administration of all horse racing and pari-mutuel wagering activities.

During the 2018 Legislative Session, the Committee acted on bills to: expand the qualifications of the Gaming Commission to combat problem gambling; create a legend for bell jar tickets sold in the State; authorize the operation of electronic bell jar vending machines; and provide continued support to both the Standardbred and Thoroughbred horse racing and breeding industries.

II. 2018 LEGISLATIVE ACTION

A. State Lottery

The New York Lottery was enacted in the New York State Constitution in 1966 to generate increased aid to education for local school districts. Celebrating its 50th anniversary in 2017, the New York Lottery contributed \$3.76 billion in State Fiscal Year 2017-18 to help support primary and secondary education in New York State. In total, combined sales for traditional and video lottery gaming operations amounted to \$9.97 billion. The New York State lottery program continues to be the largest and most profitable in the United States, earning over \$64.66 billion to support education since its founding.

Along with traditional lottery games, such as scratch-off tickets and number drawings like *Mega Millions* and *Powerball*, the New York Lottery is also responsible for all aspects of promotional activities for the eight video lottery terminal facilities (also known as “racinos”) located at various racetracks across the State. These facilities offer casino-style gaming with winning outcomes transmitted by a central system administered by the New York State Gaming Commission. In addition to contributing a significant amount to State education funding, net proceeds from video lottery gaming also provide vital assistance to New York’s horse racing and breeding industries.

1. Confiscation of Lottery Tickets

A.4580 (Pretlow); Reported to Committee on Ways and Means

In an effort to prevent potential winning tickets from not being offered for sale to customers, this bill would prohibit lottery sales agents from removing, confiscating or destroying any lottery tickets because said tickets were recalled or discontinued from a distributor prior to their expiration.

B. Horse Racing and Breeding

New York State is home to one of the leading horse racing programs in the nation. Each year, millions of dollars are wagered on races at the three largest Thoroughbred racetracks in the State, operated by the New York Racing Association, Inc. (NYRA); Aqueduct Racetrack in the South Ozone Park neighborhood of Queens; Saratoga Race Course in Saratoga Springs, which is the oldest horse racing venue in the United States and home of the prestigious Travers Stakes; and Belmont Park in Nassau County, host to the longest dirt track in North America as well as the third and final leg of the Triple Crown. Additionally, nestled in the State’s picturesque Finger Lakes region, New York’s fourth Thoroughbred track: Finger Lakes Gaming and Racetrack in Ontario County.

Across the State, there are also several Standardbred racetracks where patrons can view live harness (also known as “trotting”) races: Empire City Casino at Yonkers Raceway in Westchester County; Hamburg Gaming and Buffalo Raceway at the Fairgrounds in Erie County; Batavia Downs Gaming in Genesee County; Vernon Downs Casino and Hotel in Oneida County; Monticello Casino and Raceway in Sullivan County; Saratoga Casino and Raceway in Saratoga County; and Tioga Downs Casino in Tioga County.

In addition to attending live race meetings, racing fans can place wagers remotely through any of the State’s five regional off-track betting corporations (OTBs) – Western, Capital, Catskill, Nassau or Suffolk. Because OTBs are public-benefit corporations, millions of dollars in wagering revenues have been distributed to aid local governments across the State since their inception in 1970. Both racetracks and OTBs feature simulcasting of races taking place in New York State as well as races taking place in other states and countries around the world.

1. Payments to the New York State Thoroughbred Breeding and Development Fund
A.9686 (Pretlow) / S.7601 (Bonacic); Chapter 341 of the Laws of 2018

In recent years, due to an overall decline in the amount of money wagered on races, the New York State Thoroughbred Breeding and Development Fund (“the Fund”) has experienced a significant reduction in the payments it receives from racetracks and regional off-track betting corporations, limiting its ability to make required investments in the State’s racing and breeding program.

For these reasons, Chapter 473 of 2010 authorized the Fund to collect its percentage of wagers on a quarterly basis instead of annually. The chapter also increased the maximum percentage of the Fund’s revenues that could be used for: breeder awards, from 50 percent to 65 percent; publication and dissemination of information relating to the advancement and promotion of the breeding and raising of thoroughbreds in New York State and related agricultural pursuits, from five percent to six percent; and administration and management of the Fund, from four percent to five percent.

This legislation extended such provisions for an additional year, with a sunset date of October 28, 2019.

2. Payments to the New York Thoroughbred Horsemen’s Association
A.9687 (Pretlow) / S.7602 (Bonacic); Chapter 137 of the Laws of 2018

This legislation extended the authorization for the New York Thoroughbred Horsemen’s Association (NYTHA) to receive an additional one percent of all purses collected from race meetings held at racetracks operated by the New York Racing Association, Inc., for a total of two percent, for an additional year, until August 31, 2019. This money is used to provide additional benevolence to backstretch employees, including medical and health benefits, counseling and social services, and scholarship opportunities. NYTHA also earmarks funds for retired racehorses, equine health, safety and research.

C. Charitable Gaming

Charitable gaming is a popular fundraising device for local organizations that want to offer games of chance such as bingo, raffles, bell jar tickets and other similar games. In New York State, these games are offered by licensed charitable, religious and nonprofit organizations, as approved by the New York State Gaming Commission, on the condition that such games must occur in a municipality that has passed a local law or ordinance authorizing charitable gaming activities. Over the years, revenues from charitable gaming have been steadily decreasing, putting the livelihoods of many of these organizations in jeopardy. Recent focus has been put on finding new ways to increase these revenues in order to provide greater funding support for important programs and services in the communities in which these organizations serve.

1. Electronic Bell Jar Vending Machines

A.2303-C (Pretlow) / S.994-C (Bonacic); Veto 351 of 2018

Bell jar games, also known as “pull-tabs”, have been a popular fundraising device for charitable and not-for-profit organizations, including veterans and fraternal clubs, for over 25 years. This bill would authorize a more modern type of vending machine for bell jar tickets in order to help increase charitable gaming profits for such organizations. Electronic bell jar vending machines also provide state-of-the-art accounting and reporting technology to help ease such burdens on administering organizations. Each electronic bell jar vending machine would require approval by the New York State Gaming Commission, ensuring that the games are being conducted in accordance with law.

2. New York State Legend on Bell Jar tickets

A.4402 (Pretlow); Passed Assembly

With the popularity of bell jar games as a device for fundraising for charitable organizations, efforts to both keep the game within standards of the State and easily understood by such organizations is a priority. To relieve administrative burdens on volunteer organizations, this bill requires that all bell jar tickets sold in New York State to have an approved New York State legend located on the ticket. This legend would simplify the process of determining legality of bell jar tickets for sale.

D. Responsible Gaming

Gambling addiction can occur in many different forms and affect many different people. It is often referred to as a “hidden illness” because, unlike other addictions, there are no obvious physical signs or symptoms. With the recent expansion of gambling in New York State, it has now become more essential than ever to review and improve existing rules and regulations designed to address problem gambling in order to ensure consistency and determine the best ways to advance New York’s long-term commitment to promoting responsible gaming.

1. Qualifications of Gaming Commission

A.3076 (Cymbrowitz) / S.3370 (Sanders); Chapter 308 of the Laws of 2018

While New York State has the necessary structure in place to ensure proper regulation of casinos, to make sure they remain financially fiscal for all parties and to maintain the integrity and fairness of all gaming activity, there are currently no internal controls within the Gaming Commission to guarantee the promotion of responsible gaming practices. This bill would require that at least one of the seven members of the New York State Gaming Commission have significant experience in the prevention and treatment of compulsive gambling. This bill will help ensure that gaming facilities in New York State implement effective problem gambling programs, as the Commission would have more knowledge on the means to prevent and treat the issue.

III. Public Hearing on Oversight of the 2018-2019 State Budget

On December 11, 2018, the Committee held a budget oversight hearing on programs funded in the 2018-2019 State Budget and administered by the New York State Gaming Commission. The goal of the hearing was to examine the overall impact and implementation of the 2018-2019 budget and assess the impact and effectiveness of New York's racing and wagering programs. Those testifying included various animal rights groups, including the New York State Humane Society, Humane Society of the United States, as well as various organizations who provide aftercare for horses. Those participating advocated for increased funding and legislation to improve the quality of aftercare of racehorses.

IV. STATE FISCAL YEAR 2018-2019 ENACTED BUDGET

The State Fiscal Year (SFY) 2018-2019 Enacted Budget, with an allotted \$359.5 million for all funds for the Gaming Commission, made several significant contributions to New York State's racing, wagering and gaming programs including:

- increasing New York Racing Association (NYRA) reserves from 45 days of operating expenses to 90 days;
- authorizing off-track betting corporations to determine when net revenues will be dispersed to participating counties and cities with such counties and cities' approval;
- extending the current pari-mutuel tax rates and out-of-state simulcasting provisions for one year; and
- extending the video lottery gaming vendor's capital awards program for one year.

The SFY 2018-2019 Enacted Budget also establishes an advisory committee to review the present structure, operations and funding of equine drug testing and research conducted in the State. Such committee will receive assistance from state agencies through informational services in order to determine the future of equine drug testing and research. This committee will be composed of members recommended by the Thoroughbred and Standardbred industries; each regional off-track betting corporation; each recognized horsemen's organization; Morrisville State College and Cornell University; as well as designees from both the Assembly and Senate.

Finally, in addition to extending existing provisions that allow the New York Jockey Injury Compensation Fund (NYJICF) to utilize purse monies to help pay for worker's compensation insurance, the SFY 2018-2019 Enacted Budget also authorizes NYJICF to establish a separate account for the horsemen's organization in order for NYJICF to secure worker's compensation insurance. This legislation helps to continue NYJICF to continue to provide expanded coverage of insurance enacted last year ensuring coverage for jockeys, apprentice jockeys, exercise persons, assistant trainers, foreman, watchmen, and stable employees, including grooms and hot-walkers.

V. OUTLOOK FOR 2019

Looking ahead to the 2019 Legislative Session, the Assembly Standing Committee on Racing and Wagering will continue to develop and enact legislation that strengthens all facets of New York State's racing, wagering, and gaming infrastructures.

The Committee will remain steadfast in its commitment to support legislation aimed to strengthen New York State's racing industry by continuing to improve safety practices at racetracks across the State. Safety is not just an issue for jockeys, exercise riders and racetrack employees, but also for the many horses that compete in both the Thoroughbred and Standardbred venues. In 2019, equine health and safety will remain a top priority for the Committee as it continues to work towards finding solutions to reduce equine injuries and fatalities. The Committee will also remain dedicated to ensuring that the State's racing and breeding programs continue to receive adequate support for their contributions to the growth, promotion and developing of the State's agriculture industry.

With the State's gaming industry's recent expansion over the past few years, it is essential for the Committee to continue monitoring and assessing the impact of the gaming industry in New York with the growing markets of our surrounding states. This includes advancing legislation that enhances New York's commitment to promoting responsible gaming practices, and providing resources for problem gambling support and assistance.

The ruling of the Supreme Court in *Murphy v. National Collegiate Athletic Association* deemed the Professional and Amateur Sports Protection Act of 1992 (PASPA) unconstitutional, allowing states to make their own laws on sports wagering. The Committee will continue to monitor the impacts of expansion of the industry in New Jersey to determine its potential impact on New York, its residents, existing gaming facilities and the gambling industry as a whole.

Finally, the Committee will remain dedicated to supporting legislation that aims to enrich New York State's racing, wagering, and gaming infrastructures by focusing on important issues such as increasing and sustaining charitable gaming for local organizations, promoting responsible gambling practices, protecting the future of retired racehorses, augmenting the Thoroughbred and Standardbred racing industries, and enhancing revenues for education support for municipalities across the State.

APPENDIX A

2018 Summary Sheet

**Summary of Action on All Bills Referred to the
New York State Assembly Standing Committee on Racing and Wagering**

Final Action	Assembly Bills	Senate Bills	Total Bills
Bills Reported With or Without Amendment			
To Floor; Not Returning to Committee (Favorable)	1	0	1
To Ways and Means	3	0	3
To Codes	1	0	1
To Rules	0	0	0
To Judiciary	0	0	0
Total	5	0	5
Bills Having Committee Reference Changed			
Total	0	0	0
Senate Bills Substituted or Recalled			
Substituted		0	0
Recalled		0	0
Total		0	0
Bills Defeated in Committee	0	0	0
Bills Held for Consideration with a Roll-Call Vote	3	0	3
Bills Never Reported, Died in Committee	65	8	73
Bills Having Enacting Clauses Stricken	1	0	1
Motions to Discharge Lost	0	0	0
Total Bills in Committee	74	8	82
Total Number of Committee Meetings Held	4		

APPENDIX B

Chapters of 2018

CHAPTER	ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
137	A.9687 (Pretlow)	S.7602 (Bonacic)	Extends the authorization for the New York Thoroughbred Horsemen's Association to receive an additional 1 percent of all purses collected from race meetings held at New York Racing Association racetracks for an additional year, until August 31, 2019.
308	A.3076 (Cymbrowitz)	S.3370 (Sanders)	Expands the qualifications of members of the gaming commission to include experience in the prevention or treatment of problem gambling.
341	A.9686 (Pretlow)	S.7601 (Bonacic)	Extends payments to the New York State Thoroughbred Breeding and Development Fund for an additional year, until October 28, 2019.

APPENDIX C

Bills Vetoed in 2018

VETO MEMO	ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
351	A.2303-C (Pretlow)	S.994-C (Bonacic)	Authorizes the use of electronic bell jar vending machines by organizations licensed to conduct games of chance for charitable purposes in New York State.

APPENDIX D

Additional Bills Reported in 2018

ASSEMBLY BILL (SPONSOR)	LAST ACTION	DESCRIPTION
A.4580 (Pretlow)	Reported to Ways and Means	Prohibits retailers from confiscating, removing or destroying lottery tickets prior to the conclusion of the game.