

NEW YORK STATE ASSEMBLY

ANNUAL REPORT

2020



COMMITTEE ON
RACING AND WAGERING

CARL E. HEASTIE
SPEAKER

J. GARY PRETLOW
CHAIR



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

J. Gary Pretlow
Assemblyman 89th District

CHAIR
Racing & Wagering

COMMITTEES
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Assembly Steering Committee

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

December 15, 2020

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 2020 Annual Report. Each year, the Committee continues to make advances in the racing world, working to advance legislation aiming to improve horse racing and gaming activities in the state of New York. This included legislation which addressed charitable gaming, the lottery, the horse racing industry, and casino gambling.

During the 2020 Legislative Session, the Committee reported several bills that would provide continued support to the horse racing, horse breeding, and gaming industries, including bills that would address voidable claims, the return of lottery tickets, and various technical clean up language changes to the racing, pari-mutuel and breeding law.

In addition, the Committee also advanced legislation to: require bell jar tickets to be marked with a legend from the NYS Gaming Commission, extend certain payment procedures for the New York Thoroughbred Breeding and Development Fund, and to extend certain additional funding support for backstretch workers and their families.

The 2020 Legislative Session presented new challenges as the COVID-19 pandemic impacted New York State. The racing and gaming industries were affected as casinos, video lottery terminal (VLT) facilities, and racetracks closed their doors per executive order in the effort to reduce the spread of the virus. As a result thousands of employees were furloughed while casinos and VLT facilities remained closed until September. New policies were issued to keep horse racing throughout New York State running in fan-less tracks, to ensure that bettors

remained socially distanced. Interim guidance was offered for re-opening commercial casinos and VLT facilities in September, to ensure public health and safety requirements were met. However as of November 2020, the New York State Gaming Commission issued a mandate, based on an executive order, requiring these facilities to close by 10pm, due to a rise in positive COVID-19 cases.

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 2020 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 2021 Legislative Session to continue to strengthen New York State's great racing, wagering and gaming infrastructure and to address any continuing impacts and changes the COVID-19 pandemic brings to this industry.

Warm Personal Regards,

A handwritten signature in black ink that reads "James Gary Pretlow". The signature is written in a cursive, flowing style.

J. Gary Pretlow

Chair, Committee on Racing and Wagering

**2020 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON RACING AND WAGERING**

J. Gary Pretlow, Chair

Committee Members

Majority

Aileen Gunther
Michael Miller
Carrie Woerner
Michaëlle Solages
Angelo Santabarbara
Stacey Pheffer Amato
Clyde Vanel

Minority

Michael LiPetri
Andrew Garbarino
Peter Lawrence

Staff

Giovanni Warren, *Assistant Secretary for Program and Policy*
Sarah Klein, *Associate Counsel*
Nicole VanAuken, *Program and Counsel Secretary*
Troy Mackey, *Committee Coordinator*

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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 2020 Legislative Session, the Committee acted on bills which: create a legend for bell jar tickets, would require vendors to return lottery tickets to the bearer of the instrument, and provided continued support to both the Standardbred and Thoroughbred horse racing and breeding industries.

II. 2020 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. The New York Lottery contributed \$3.37 billion in State Fiscal Year 2018-19 to help support primary and secondary education in New York State. The New York State lottery program continues to be the largest and most profitable in the United States, earning over \$68.03 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. Returned Lottery Tickets

A.4464 (Pretlow); Passed Assembly

This bill would require lottery retail agents to return any previously purchased ticket which has been submitted to verification to the customer, once such verification has been completed. This is to help remedy situations where a lottery sales agent, either intentionally or by mistake, informs a customer that they have a losing ticket when they in fact do not. As lottery tickets are bearer instruments, this legislation would prevent situations where someone else could then redeem the ticket and keep the prize money.

B. Class III Casino Gaming

Class III Casino gaming was authorized by an amendment to the New York State Constitution in 2013. Since its inception, casino gaming has expanded greatly across upstate New York. With the creation of 4 upstate commercial casinos, Rivers Casino in Schenectady, Del Lago Casino in Waterloo, Tioga Downs Casino and Raceway in Nichols, and Resorts World Catskills in Thompson, along with 3 additional casinos to be authorized and established in the greater New York City area starting in 2021, casino gaming has flourished within the state. In the years following the authorization of casino gaming, the gaming industry has grown in various ways. The concept of virtual gambling, wagering, and gaming has greatly evolved within the last few years, and mobile sports wagering has spread rapidly throughout the United States. Mobile Sports Wagering has risen to the forefront of conversations about the future of gaming in New York State, and discussions over the potential avenues in which to authorize mobile gambling have continued.

1. Technical Changes regarding the Racing and Wagering Board

A.9749 (Pretlow)/ S.7639 (Addabbo); Chapter 243 of the Laws of 2020

This bill would make several technical changes to the pari-mutuel wagering and breeding law, the general municipal law, the alcohol and beverage control law, and more. These technical changes include removing references to "the state racing and wagering board" as well as removing various expired tax rates, and other clean ups such as "per centum" to percent. These language changes were necessary due to Chapter 60 of the Laws of 2012, which repealed the old Article 1 of the Racing, Pari-Mutuel, and Breeding Law and implemented a new article establishing the regulatory structure and responsibilities of the New York State Gaming Commission.

C. 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 Raceway in Sullivan County; Saratoga Casino and Raceway in Saratoga County; and Tioga Downs Casino and Raceway 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.9129 (Pretlow)/ S.7088 (Addabbo); Chapter 161 of the Laws of 2020/ Chapter 58 of the Laws of 2020.

For the past few years, there has been a consistent decline in wagers placed on horse races across the state. Because of this, 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 bill would extend such provisions for an additional year, with a sunset date of October 28, 2021.

2. Payments to the New York Thoroughbred Horsemen's Association

A.9131 (Pretlow)/ S.7087 (Addabbo); Reported to Ways and Means/Chapter 58 of the Laws of 2020

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, 2021. 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.

3. Void and Voidable Claims

A.1809 (Miller, MG); Reported to Rules

This legislation would codify the regulation issued by the New York State Gaming Commission which requires that a claim in a thoroughbred claiming race is void if a horse dies during a race or is euthanized on the track. The regulation also allows a claim to be voidable at the discretion of the new owner, for one hour, after the race is made official, for any horse that is vanned off the track.

D. 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. New York State Legend on Bell Jar Tickets

A.9130 (Pretlow); Advanced to Third Reading

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 have an approved New York State legend located on the ticket. This legend would simplify the process of determining the legality of bell jar tickets for sale.

III. STATE FISCAL YEAR 2020-2021 ENACTED BUDGET

The State Fiscal Year (SFY) 2020-2021 Enacted Budget, with an allotted \$113,514,000 all funds appropriation for the Gaming Commission, made several significant contributions to New York State's racing, wagering and gaming programs. Some of these contributions include:

- extending the use of up to \$2 million from the unpaid purse cushion account through 2021, and extends the maximum amount of 2% to be drawn from the owner's share of purses until April 1, 2024 for the New York Jockey Injury Compensation Fund;
- authorizing sports pools operated within a casino to be operated primarily within a sports lounge;
- extending the current pari-mutuel tax rates and provisions related to the simulcasting of out-of-state thoroughbred and harness races for one year;
- A.9129 (Pretlow)/ S.7088 (Addabbo) - Payments to the New York State Thoroughbred and Development Fund; and
- A.9131 (Pretlow)/ S.7087 (Addabbo) – Payments to the New York Thoroughbred Horsemen's Association.

The SFY 2020-2021 Enacted Budget also authorizes the New York State Racing Association, Inc. (NYRA) to fund from their capital expenditures the construction and furnishing of an equine drug testing and research lab for the use of the New York State Gaming Commission. NYRA can make this determination in their discretion, and in the event such a lab is to be built, NYRA will submit a report on the initial plan for the equine drug testing and research lab to the Governor, the Temporary President of the Senate, and the Speaker of the Assembly, by April 1, 2021, and the report will be made public on the Gaming Commission's website.

IV. OUTLOOK FOR 2021

During the 2021 Legislative Session, the Assembly Standing Committee on Racing and Wagering will continue to make progress towards developing and enacting legislation that strengthens all facets of New York State's racing, wagering, and gaming infrastructure. The COVID-19 pandemic heavily impacted the four upstate commercial casinos, as they were closed from mid-March until September. The Committee will not only continue to address the expansion of gambling in New York State, but also monitor new challenges these facilities may face as they reopen their doors to the public.

The Committee will continue to remain steadfast in supporting legislation aimed to strengthen New York State's racing industry. Throughout the pandemic, races were conducted without fans in attendance, changing the traditional manner in which this industry has run in order to adapt and keep fans, bettors, and backstretch workers alike safe. It is important to protect not only racetrack employees, jockeys, and exercise riders, but also the thousands of Standardbred and Thoroughbred horses throughout the State. In 2021, equine safety will continue to be a priority for the Committee, along with addressing the ever present need for adequate aftercare practices and procedures for the industry's retired racehorse population.

Finally, the Committee will continue its dedication to supporting legislation that aims to enrich the State's racing, wagering, and gaming infrastructures by focusing on important issues such as sustaining charitable gaming for organizations, promoting responsible gaming practices, maintaining transparency between the industry and those it serves, and enhancing revenues for education support for municipalities across the State.

APPENDIX A

2020 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)	2	0	2
To Ways and Means	1	0	1
To Codes	1	0	1
To Rules	2	0	2
To Judiciary	0	0	0
Total	6	0	6
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	64	9	73
Bills Having Enacting Clauses Stricken	0	0	0
Motions to Discharge Lost	0	0	0
Total Bills in Committee	70	11	81
Total Number of Committee Meetings Held	3		

APPENDIX B

Chapters of 2020

CHAPTER	ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
161	A.9129 (Pretlow)	S.7088 (Addabbo)	Extends payments to the New York State Thoroughbred Breeding and Development Fund for an additional one year.
243	A.9749 (Pretlow)	S.7639 (Addabbo)	Would make various technical changes to the Racing, Pari-Mutuel, and Breeding Law, the General Municipal law, and the Alcohol and Beverage Control Law.

APPENDIX C

Additional Bills Reported in 2020

ASSEMBLY BILL (SPONSOR)	LAST ACTION	DESCRIPTION
A.1809 (Miller, MG)	Reported to Rules Committee	Would codify the New York State Gaming Commission regulation which requires that a claim in a thoroughbred claiming race is void if a horse dies during a race or is euthanized on the track, or voidable if a horse is vanned off the track for up to one hour after such race.
A.4464 (Pretlow)	Passed Assembly	Would require lottery sales agents to return any previously purchased ticket which has been submitted for verification to the customer.
A.9130 (Pretlow)	Advanced to Third Reading	Would require bell jar tickets authorized to be sold in the state of New York to be marked with a legend approved by the NYS Gaming Commission.
A.9131 (Pretlow)	Reported to Ways and Means Committee	Extends the authorization for the New York Thoroughbred Horsemen’s Association to receive an additional 1% of purses collected from race meetings held at tracks operated by the New York Racing Association, Inc., for one year.