

NEW YORK STATE ASSEMBLY

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Committee On Racing & Wagering

Carl E. Heastie • Speaker
J. Gary Pretlow • Chair



ANNUAL REPORT



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

J. Gary Pretlow
Assemblyman 89th District

CHAIR
Racing & Wagering

COMMITTEES
Codes
Insurance
Rules
Ways & Means

Assembly Steering Committee

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

December 15, 2022

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 2022 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, responsible gaming, the lottery, the horse racing industry, and casino gambling.

During the 2022 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 prohibit the Division of Lottery from removing tickets from circulation prior to the expiration date, authorize an additional 1,000 video lottery gaming devices at Suffolk County OTB, and extenders to the racing, pari-mutuel and breeding law.

In addition, the Committee also advanced legislation to: prohibit board members, officers, employees, contractors, consultants, or any other agent of an OTB from receiving anything exceeding \$15, prohibit the use of a take home vehicle, require video lottery gaming agents submit an annual marketing and promotional plan to the Gaming Commission, extend certain payment procedures for the New York Thoroughbred Breeding and Development Fund, and extend certain additional funding support for backstretch workers and their families. The Committee was also involved in significant legislation during the budgetary process, including authorizing up to three new casinos, extending the current pari-mutuel tax rates and provisions related to out of state simulcasting, allowing NYTHA to utilize \$2 million from the unpaid purse cushion account to help the New York Jockey Injury Compensation Fund, and providing

flexibility for Catskill and Capital Off-Track Betting Corporations with their capital acquisition funds while submitting an expenditure plan to the Gaming Commission.

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 2022 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 2023 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, flowing style.

J. Gary Pretlow

Chair, Committee on Racing and Wagering

**2022 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON RACING AND WAGERING**

J. Gary Pretlow, Chair

Committee Members

Majority

Aileen Gunther
Michaelle Solages
Carrie Woerner
Angelo Santabarbara
Stacey Pheffer Amato
Clyde Vanel
Nader Sayegh

Minority

Jeffrey Gallahan
Jake Ashby
Jarett Gandolfo

Staff

Sarah Klein, *Assistant Secretary for Program and Policy*
Spiro Sokaris, *Analyst*
Joann Butler, *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 2022 Legislative Session, the Committee acted on bills which: prohibit the Division of Lottery from removing tickets prior to the game's expiration date, allow an additional 1,000 video lottery gaming devices at Suffolk County OTB, prohibit employees at an OTB from receiving either anything over \$15 worth of value, or a take home vehicle, and provide continued support to both the Standardbred and Thoroughbred horse racing and breeding industries.

II. 2022 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 \$2.6 billion in State Fiscal Year 2021-22 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 \$76.9 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.9603 (Pretlow); Reported to 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.

2. Authorization of Additional Video Lottery Terminals in Suffolk County

A.2210-C (Stern)/S.7685B (Gaughran); Passed Assembly

Suffolk County OTB currently hosts 1,000 video lottery terminals, and this bill would authorize Suffolk County OTB to install an additional 1,000 terminals to further increase revenues for the benefit of the state.

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 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.9274 (Pretlow)/ S.7851 (Addabbo); Chapter 199 of the Laws of 2022

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, due to the decline in wagers placed on horse races over the past few years. This has been 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 law extends such provisions for an additional year, with a sunset date of October 28, 2023.

2. Payments to the New York Thoroughbred Horsemen’s Association
A.9105 (Pretlow)/ S.7852 (Addabbo); Chapter 200 of the Laws of 2022

This law extends 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, 2023. 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. Additional Funding Support for Buffalo Raceway

A.9962 (Pretlow)/S.9009 (Addabbo); Chapter 526 of the Laws of 2022

Under current law, a 5 percent surcharge is imposed on all winnings earned from bets placed through regional off-track betting corporations (OTBs). Each month, the revenues derived from this surcharge are distributed proportionally to the municipalities hosting the racetrack for which the bets were placed. However, in the case of monies owed to Erie County, 50 percent of this surcharge amount is instead redirected to Buffalo Raceway. This bill extends such authorization until August 31, 2027.

4. Prohibition on Receiving Anything Exceeding \$15

A.9393 (Peoples-Stokes)/S.7856 (Kennedy); Passed Senate

This bill would prohibit board members, officers, employees, contractors, consultant, or any other agent of an off-track betting corporation from receiving anything of value exceeding \$15. This \$15 limitation will also apply to the marketing and promotional activities off the off-track betting corporation, and the marketing and promotional plan must be approved by the Gaming Commission.

5. Prohibition on Take-Home Vehicles

A.9394 (Peoples-Stokes)/S.7854 (Kennedy); Passed Senate

This bill would prohibit board members, officers, employees, contractors, consultant, or any other agent of an off-track betting corporation from receiving a take-home vehicle.

6. Prohibition of Receiving Compensation by Directors

A.9455 (Wallace)/S.8580 (Kennedy); Reported to Ways & Means

This bill would prohibit directors of off-track betting corporations from receiving compensation or reimbursement beyond expenses that are incurred. Video lottery gaming agents would be required to submit an annual marketing and promotion plan detailing names and addresses of persons receiving a promotional item greater than \$50 of value.

III. STATE FISCAL YEAR 2022-2023 ENACTED BUDGET

The State Fiscal Year (SFY) 2022-2023 Enacted Budget, with an allotted \$497,000,000 all funds appropriation for the Gaming Commission, included several significant additions and changes to New York State's racing, wagering, and gaming programs. Some of these laws include:

- extending the current pari-mutuel tax rates and provisions related to the simulcasting of out-of-state thoroughbred and harness races for one year;
- authorizing Catskill and Capital Off-Track Betting Corporations to utilize a percentage of the capital acquisition fund for the purposes of statutory obligations, payroll, and expenditures necessary to accept wagers for one year, requiring that both corporations submit an expenditure plan to the Gaming Commission for their approval;
- extending provisions that allow the New York Thoroughbred Horsemen's Association to utilize \$2 million from the unpaid purse cushion account through 2025 to help offset the premium increase for the New York Jockey Injury Compensation Fund.

The SFY 2022-2023 Enacted Budget also authorized up to three additional commercial casinos to be located anywhere in New York State through a competitive bidding process, provided that no more than three facilities can be awarded downstate. This process also requires the establishment of local advisory committees to approve of an application prior to selection by the Gaming Commission, and that applicants comply with all applicable zoning requirements. The competitive bidding process also includes minimum tax rates and licensing fees, and the Commission must consider siting criteria based on diversity. Additionally, this law ensures that racing support payments and monies for education aid are held harmless.

IV. OUTLOOK FOR 2023

During the 2023 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. 2022 was the first year after the COVID-19 pandemic that many gaming facilities in the state were able to operate at full capacity once again. With the authorization of an additional three commercial casinos, it is also essential that the Committee continues to monitor and assess the impact of the expansion of gambling on New York State, as well as the existing gaming facilities and the gaming industry as a whole. This includes promoting responsible play practices and ensuring there are adequate resources for problem gambling support and assistance.

The Committee will continue to remain steadfast in supporting legislation aimed to strengthen New York State's racing industry. 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 2023, 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 local 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

2022 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)	0	0	0
To Ways and Means	5	0	5
To Codes	1	0	1
To Rules	2	0	2
To Judiciary	0	0	0
Total	8	0	8
Bills Having Committee Reference Changed			
Total	2	0	2
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	0	0	0
Bills Never Reported, Died in Committee	66	7	73
Bills Having Enacting Clauses Stricken	0	0	0
Motions to Discharge Lost	0	0	0
Total Bills in Committee	74	7	81
Total Number of Committee Meetings Held	4		

APPENDIX B

Chapters of 2022

CHAPTER	ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
199	A.9274 (Pretlow)	S.7851 (Addabbo)	Extends payments to the New York State Thoroughbred Breeding and Development Fund for an additional one year.
200	A.9105 (Pretlow)	S.7852 (Addabbo)	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.
526	A.9962 (Pretlow)	S.9009 (Addabbo)	Extends the authorization for Buffalo Raceway to receive 50% of the surcharge amount placed on players' winnings from OTBs until August 31, 2027.

APPENDIX C

Additional Bills Reported in 2022

ASSEMBLY BILL (SPONSOR)	LAST ACTION	DESCRIPTION
A.9393 (Peoples-Stokes)	Passed Senate	Would prohibit board members, officers, employees, contractors, subcontractors, consultant, or any other agent of an off-track betting corporation from receiving anything of value that exceeds \$15.
A.9394 (Peoples-Stokes)	Passed Senate	Would prohibit board members, officers, employees, contractors, subcontractors, consultant, or any other agent of an off-track betting corporation from receiving a take-home vehicle.
A.9455 (Wallace)	Reported to Ways and Means	Would prohibit directors of off-track betting corporations from receiving any compensation beyond expenses incurred and require VLT gaming agents to submit an annual marketing and promotional plan for approval.
A.9603 (Pretlow)	Reported to Ways and Means	Would ensure that a person who wants to buy a lottery ticket is not limited or deterred because tickets were prematurely recalled from a distributor.
A.2210-C (Stern)	Passed Assembly	Authorizes an additional 1,000 video lottery gaming devices located at Suffolk County OTB.