



General Assembly of the Commonwealth of Pennsylvania
Joint State Government Commission
Room 108 Finance Building, 613 North Street
Harrisburg, PA 17120
717-787-4397

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Report Summary in Response to House Resolution 616
Horse Racing in Pennsylvania

Act No. 7 of 2016 instituted a major reform of the horse and harness racing industries, and directed the Joint State Government Commission, with the assistance of the Independent Fiscal Office, to conduct a study assessing the financial, regulatory and market factors of the horse racing industry. Contemporaneous with the enactment of Act No. 7, House Resolution No. 616 was proposed and adopted, directing the Joint State Government Commission, with the assistance of the Independent Fiscal Office, to conduct a study similar to the one proposed under Act No. 7. The combined study directives requested assessments and recommendations in eleven different areas.

Combining Pennsylvania's gaming oversight functions will yield relatively little in cost savings, as the nature of the various forms of gaming are significant enough that separate regulatory authority is advisable. Combining the racing commissions into a single division was a fait accompli under Acts No. 7 and No. 114 of 2016. At this point, no further consolidation seems necessary or feasible from an administrative perspective.

A review of neighboring jurisdictions reveals that almost all of the adjoining states that have horse racing fund it with casino-generated monies, and provide incentives for breeding in the state. Those states that have successfully expanded to other gaming platforms had tied the expansions to the brick-and-mortar casinos, so that any new gaming opportunities provide a revenue stream to the racing industry.

Acts No. 7 and No. 114 of 2016 statutorily addressed the allocations by the Department of Agriculture of expenses to the Racing Fund. The Racing Fund is required to maintain a detailed, itemized list of all expenditures from the fund. Reimbursement to the Department of Agriculture for shared administration, shared staff and shared facilities may only be made for actual expenses and records relating to the expenses and specific employee allocations must be maintained. These policies adequately provide the safeguards requested.

There are few testing laboratories comparable to Pennsylvania, as there are approximately a dozen accredited testing laboratories in the country. PETRL was compared to laboratories in New York and California that perform similar functions. Pennsylvania had the lowest total laboratory costs, even though it processed approximately 10,000 more post-race samples than California. Costs per sample were also lower. It is not recommended that samples be shipped out of Pennsylvania under a different arrangement for testing.

Maximum penalties for violations of the horse racing laws were increased from \$5,000 to \$10,000 in 2016. Further increasing fines seems premature at this time. Once the Commonwealth can evaluate the adequacy of this new statutory amount after the Racing Commission has had some experience with its potential and actual application.

Ejection of licensees under the horse racing law is limited by federal court interpretations of "state action." If this limitation on the strength of property owners to eject is unacceptable, the statute could be amended to bypass the commission's review and allow track operators to bring an action of ejection in accordance with the rules relating to a civil action whether they are doing so under a rule of racing or otherwise. The economic analysis of the investment of gaming assessments under Act No. 71 of 2004 does not lend itself to a brief summary and we recommend reviewing that chapter in its entirety.

Overall all, Standardbred breeders in Pennsylvania are currently experiencing more success than Thoroughbred breeders in maintaining foal populations. From 2005 to 2010, there was a substantial increase in the number of mares bred to Pennsylvania Thoroughbred stallions and the number of foals born. This number has dropped off, and these levels have returned to their pre-2004 rates. Standardbred breeding has seen a much gentler decline in the number of registered yearlings, although there was a significant decline in the number of breeders receiving awards from 2014 to 2015.

If live horse racing is to survive and thrive, it must keep its traditional base of satisfied and enjoying the sport as well as expand its fan base into the broader market of sports and entertainment, become a better product for consumers, improve its reputation for animal welfare, and consider alternative gaming platforms.

Racinos compete with each other, especially on days when races are being held at multiple tracks and a coordinated effort to schedule a complementary racing circuit could help. Fewer conflicting race days could lead to fuller fields, which generally makes the races more competitive, thereby increasing attendance and resultant handle. Reducing takeout rates could also be considered.

Stringent enforcement of rules and penalties for mistreatment and doping of horses must occur and be publicly reported, in order to strengthen the public's trust in the industry's ability to care for these animals. Similarly, aftercare efforts should continue and be publicized to help build the public's confidence in the industry.

When considering alternative gaming platforms, it must be recognized that any expansion of gaming must be tied to the financial benefit of the horse racing industry; competition from gaming platforms that are not connected to the racinos can only draw patrons away.

The expansion of pari-mutuel wagering, advance deposit account wagering and electronic wagering to secondary pari-mutuel organizations has mixed benefit to the horse racing industry at large and the horsemen, breeders and track operators. The industry as a whole receives a financial benefit from the tax imposed on wagering at secondary pari-mutuel organizations, and the Breeding Fund and Sire Stakes Funds stand to see increased funding from this tax.

Attendance and handle at live meets at the individual tracks are likely to decline, unless other incentives to attend races in person are provided. The expansion of ADW and electronic wagering make it unnecessary to attend the track in order to bet on the races. The licensure and restrictions imposed on secondary pari-mutuel organizations, along with a limit to the number of licenses to be issued statewide, can provide some protection to the tracks. ADW has already impacted the number of off-track betting sites operated by licensed racing entities, and the loss of employment at those locations is likely to continue.

There are specific aspects of the tracks' live marketing programs that seem to have a significant impact on attendance and handle. Special event days in particular result in increased attendance and handle at each track. Some of the tracks make greater use of social media than others. Social media is an avenue to attract younger people who are not traditionally horse race fans, and all of the tracks could benefit from a strong social media presence.

Acts No. 7 and No. 114 of 2016 authorize the issuance of temporary regulations as well as new permanent regulations to implement the new provisions of the law, and this should be done expeditiously, as many of the regulations found in the Pennsylvania Code are duplicative and outdated.

Currently, accurate data is difficult to obtain in this area. The last complete survey of Pennsylvania's equine industry occurred in 2002, by the Penn State University College of Agricultural Sciences, under contract from the Pennsylvania Horse and Harness Racing Commission. A new survey is long overdue, and is something the Horse Racing Commission should consider repeating.

Real-time data on the size of foal crops is not available. Notice of births only occur after the foal is registered (a voluntary act by the owner). Some method of real-time data collection should be considered in order for the Racing Commission to be able to spot trends in horse populations sooner and direct desired efforts to assist the industry more quickly.

The full report is available on our website <http://jsg.legis.state.pa.us/>