

NYS Gaming Commission - Public Meeting Transcript

May 20, 2024 1 p.m.

317 Lenox Ave, 6th Floor Conference Room, New York, NY

Executive Director Robert Williams: New York State Racing, Pari-Mutuel Wagering and Breeding Law § 102 provides that the New York State Gaming Commission shall consist of seven members appointed by the Governor by and with the advice and consent of the Senate. Four members being confirmed by the New York State Senate are necessary to afford the Commission an ability to establish a quorum and undertake action.

This present meeting of the Commission is now called to order.

Ms. Secretary, will you please call the roll?

Acting Secretary Kristen Buckley (via video): John Crotty

Commissioner John Crotty: Here.

Kristen Buckley: Sylvia Hamer

Commissioner Hamer: Here

Acting Secretary Kristen Buckley: Peter Moschetti

Commissioner Moschetti: Here

Acting Secretary Kristen Buckley: Brian O'Dwyer

Chair Brian O'Dwyer: Here.

Kristen Buckley: Marissa Shorentsein

Kristen Buckley: Jerry Skurnik

Commissioner Jerry Skurnik: Here.

Executive Director Williams: Ms. Secretary, please have the record reflect the quorum of established members is present, thus enabling the transaction of business. Please note that Commissioner Moschetti is in Schenectady. Bilateral visual and oral communications between New York and Schenectady have been established. Mr. Chairman?

Chair Brian O'Dwyer: Minutes of the Commission meeting conducted on March, 25, 2024 have been provided to the members in advance. At this time, I'd like to ask the members if there are any edits, corrections or amendments. I'd now like to call on Mr. Williams for his report.

Executive Director Williams:

I want to talk about two items today. One is in a new lottery campaign and the other regards the Belmont Stakes at Saratoga.

The Division of the Lottery has embarked on a new advertising campaign that will focus on its underlying purpose: to benefit New York public schools. While Commission employees are rightfully proud of the more than \$82 billion raised and contributed to New York public education since 1967, the purpose of the lottery is sometimes overlooked given media focus on prizes. In fact, research indicates that only 24 percent of New Yorkers are able to accurately identify Education as Lottery's beneficiary.

To address this deficiency, Lottery has initiated an advertising campaign to communicate its Education mission.

Phase 1 started in March, with organic social engagement. This has included a new Aid to Education logo and messaging across all of Lottery's owned media channels, including: the Lottery website landing page, providing details on the amount of money contributed, how the revenue is distributed, and how much each school district, by county, has benefited

On Lottery's social media such as the site formerly known as Twitter, Facebook, Instagram and YouTube sharing statistics about New York Lottery's contribution to public education.

On draw game tickets, with Aid to Education messaging incorporated on the front of all NUMBERS, Win4, Mega Millions, Powerball, Pick 10, Take 5, Cash4Life, LOTTO and Quick Draw tickets.

And on digital in-store signage, which are at all New York Lottery retail locations, attached to the ticket sales terminal, updated monthly to share new statistics about New York Lottery's contribution to public education.

Phase 2, which started this month, extends the Aid to Education logo and messaging by leveraging paid media already in market, including digital outdoor signage, digital display, social and sponsorships, along with additional owned channels.

This will include LinkNYC digital outdoor signage, on 110 street level kiosks across Manhattan.

On digital display banners running across a broad network of publishers, spanning categories such as news, sports, and entertainment.

With a Summer Stage sponsorship, across a variety of assets including digital stage screens, e-newsletters and social media posts, with website desktop and mobile banner placement across the New York Lottery website, and

And with Aid to Education logo incorporated onto the back of all new instant game tickets as well as all draw game tickets

Phase 3 is scheduled to start this September, with an integrated media mix, with a rollout across digital channels and a broadcast push at the launch of the campaign.

This will include television, to drive messaging reach with a presence across highly visible programming in all 10 of the State's Designated Market Areas during the back-to-school season.

Digital and social media, to reach consumers across streaming audio and video.

In print, placed in highly indexing newspapers across the State at launch and at the start of holiday season, and

Out-of-Home, with a mix of aimed to drive awareness.

Finally, Phase 3 will be supported through year-round sponsorships which include placements across both sports and music events that connect the New York Lottery stadium and arena signage and broadcasts.

Since Aid to Education is an evergreen Initiative, success will be measured based on observed increases in key metrics long-term, ensuring New Yorkers are better aware of our critical mission and to remind them of the New York Lottery's singular mission of funding public education.

Finally, several months ago the Commission approved NYRA's request to conduct the Belmont Stakes and three additional days of associated events at the Saratoga Race Course. The four days have been labeled the Belmont Stakes Racing Festival, and feature 24 stakes races with purses totaling over \$10 million.

While this will be the first occurrence of the Belmont Stakes at Saratoga, the race – named after August Belmont Sr. rather than Belmont Park - has been previously held at Jerome Park, Morris Park Racecourse and Aqueduct Racetrack. I note that one of the three years it was contested at Aqueduct, the race was won by the father of the Commission's NYRA Steward (1969, Arts & Letters). The traditional length of the race has been 1.5 miles, but it has been contested at distances between 1 1/4 miles and 1 5/8 miles. This year's event will be contested at 1 1/4 miles.

In advance of this event, the Commission has undertaken a few actions designed to ease the unique event.

Starting in March, Commission licensing staff have been working with NYRA, the New York Thoroughbred Horsemen's Association, and the Backstretch Employees Service Team staffs to facilitate licensing of employees who will be working at Saratoga. In April, Schenectady-based Commission staff have been holding scheduled hours at Saratoga Race Course to take and process fingerprints and to accept and review application materials.

The oddity of a limited four-day event at a racetrack remote from the primary place of meet operation could have resulted in claiming inequities given Commission Rule 4038.1 (a) provides that claims may only be made by an owner who has nominated a starter in the previous or current race meet in which the claim is made.

For the avoidance of doubt and to ensure there are no unintended consequences, the NYRA Commission steward declared the racing conducted as part of the Belmont Stakes Racing Festival to be part of the Belmont at the Big A Summer Meet. Accordingly, licensed owners who do not compete in the 2024 Belmont Stakes Racing Festival will remain eligible to claim horses during the Belmont at the Big A Summer Meet.

Finally, to ensure the racing surfaces are appropriately groomed, the Commission Equine Medical Director has been interfacing with NYRA facilities and outside consultants to ensure the surfaces have been opened in a manner consistent with the protocols established a few years ago to make the surfaces as safe as possible.

While there will be no Triple Crown contested, I anticipate the Belmont Stakes to be highly competitive. Between Friday and Saturday, there will be thirteen graded stakes, with nine being Grade 1 events. This makes for the best weekend card in North America outside the Breeders Cup.

I hope you can all attend.

Chairman O'Dwyer: Thank you, Mr. Williams, do we have any questions for Mr. Williams? Hearing none. All right.

Now let's go to our rulemaking New York State Racing Power, mutual wagering and breeding law. 104.19 authorizes the Commission to promulgate rules and regulations that need to carry out its response. Abilities to that regard, the Commission will from time to time, probably get rules and regulations and rule amendments pursuant to the state Administrative Procedure Act. Today we have 3 rules for adoption consideration and one rule for proposal consideration.

Mr. Williams?

Executive Director Williams: For Commission consideration, is the adoption of amendments to the Thoroughbred and harness pick 4 wagering rules. These changes in regard to consolidation pools and carryovers would mirror the current Thoroughbred pick six rule and the proposed rule for amendments to the Thoroughbred pick five rule.

The proposal would allow each racetrack to choose one of two options for conducting pick four way drinks, either carry over 100% of the net pool or carry over 75% of the net pool while paying out a consolation of the remaining 25% prior written approval of the Commission would be required before a track could change the method of apportioning the pick four pool.

And each track operator would be required to ensure that the wagering public is aware that the differences in the way that pick four pool is aborted. A notice of proposed rulemaking was published in the February 7th, 2024 State Register, meaning the public comment period expired on April 8th. No public comments were received. The Commission recommends that the Commission adopt this proposed rulemaking.

Chairman O'Dwyer: So moved second, second. All in favor. Aye. Opposed. Thank you.

Executive Director Williams: For Commission consideration, is the adoption of amendments to the Thoroughbred pick five wagering rule that would allow each thoroughbred race track the option of offering a consolidation payout for pick 5 wagers? Consolation. Excuse me. The proposal would allow a thoroughbred racetrack to choose one of two options for conducting a pick five, wagering either carry over 100% of the net pool or carry over 75% of the net pool while paying out as a consolation the remaining 25%.

Prior written approval of the Commission would be required before track could change the method of apportioning its pick five pools and each track operator would be required to ensure that the wagering public is aware of the differences in a way that the pick five pool is apportioned. A notice of proposed rulemaking was published in the in the February 7th, 2024 State Register, meaning that the public comment. Period expired on April 8th. One comment was received from Naira, which expressed support for the proposal. Staff recommends that the Commission adopt this rule maker.

Chairman O'Dwyer: Commissioners, any questions on the adoption of amendments regarding to pick 5 wager for Thoroughbred racing, Aries? None. May I have a motion to adopt second?

So moved. 2nd. All in favor? Aye Motion is carried. Mr. Williams?

Robert Williams: For Commission consideration, is the adoption of a proposed rule to amend thoroughbred claiming regulations. Recall this proposal was developed after meetings with Finger Lakes and Naira and the Thoroughbred horsemen's organizations that association.

The proposal would allow claimants who have raced on the circuit within 120 days. Which would increase the number of owners qualified to make claims it would allow thirty additional days for holders of a certificate of eligibility who have lost a competition by lot for acclaimed wars, providing that an owner with providing an owner with an opportunity to claim when the owner has not been successful.

Claiming a horse in the 1st 30 days of a race meeting, it would reduce from 30 to 20 days. The restriction against running a claimed horse again for a claiming price less than 25% greater than the claiming.

It would establish a further 10-day period in which a claimed horse may start for a price equal to the claiming price, and it would extend from 60 days or 30 days to 60 days. The prohibition against running a claimed horse outside of New York State, with an exception for horses claimed at Finger Lakes Racetrack.

In which case the horse may run elsewhere after 30 days from the end of the Finger Lakes racing season.

A notice of proposed rulemaking is published in the February 7th, 2024 State Register, meaning that the public comment period expired on April 8th. 2 comments were received, one from NYRA, which expressed support for the proposal, the 2nd from a licensed thoroughbred owner, Christopher Mancusi who also expressed support for the proposal, staff recommends that the Commission adopt this rulemaking.

Chairman O'Dwyer: Commissioners, any questions on the adoption of amendments regarding claiming rules revision and thoroughbred racing?

Commissioner Crotty: I have one. Didn't we extend out the time? Back in the day for horse safety. Wasn't it longer? And then we shortened, you know, like you couldn't run them right back?

Executive Director Williams: I believe there was an element relative to that back in 2014 after.

Commissioner Crotty: Yeah, yeah, it's a long time ago and now we're getting away from that.

Executive Director Williams: Now, Ron do you have any?

Ron Ochrym: No, I think you're right on that Rob. It was 2014.

Commissioner Crotty: So why are we walking that back now?

Executive Director Williams: There's been no indication or incidence of breakdowns of the horses and the and the claimant could be a variety.

Commissioner Crotty: Because? They had more time, right? Wasn't that the point of it?

Executive Director Williams: Of factors. We're the only one in the Northeast that has that time restriction, so I would suggest that's not accurate.

Commissioner Crotty: I mean the rest of the team is OK, but I wasn't quite clear why we're shorting that up, right?

Executive Director Williams: I don't believe we have Scott Palmer on the phone. Scott, are you on? I'd be happy to get his opinion relative to...

Commissioner Crotty: That we could do it, it's fine. But I mean, I just.

Chairman O'Dwyer: If you have a question, John, I'd rather put it over and get our medical director in here.

Commissioner Crotty: It seemed like we undertook those steps for purposes of safety. And now we're sort of rolling it back, maybe. I meant bring it up earlier.

Executive Director Williams: In the 24 recommendations that came out of the 2011 Task Force report, I wouldn't suggest that this was the primary recommendation.

Chairman O'Dwyer: Look at our we'll get our medicals director. OK, fine on this. OK, put it over the next meeting,

Proposed amendments to the existing harness whipping rule. Last rule making matter for consideration today regards the harness whipping rule. At the last meeting we had a brief discussion before tabling the action to ensure the participation of Commissioner Moschetti, who's always expressed concern regarding whipping and of crop rules, and frankly, I had some discussions as well, so I think. It's worthwhile for us to discuss that. Mister Williams?

Executive Director Williams: For Commission consideration, our amendments to existing rules regarding the use of whips and harness racing. The proposed amendments would require that a driver keep a line in each hand except as necessary to adjust equipment while racing or training or anytime a horse is being driven on a track. The proposal would further define the allowable urging during a race and conduct that would be considered excessive and indiscriminate use of the whip, kicking and foot out of stirrup would also be further refined for clarity, and that a driver who removes a foot from the stirrups would be treated as if the driver were found to have kicked the horse and.

Conduct that would be considered a kick violation if the driver makes contact with the horse while the feet are in or out of a stirrup.

Finally, the proposal would establish penalties for these offenses would allow for the consideration of offenses in other jurisdictions and would constrain judges discretion in setting such penalties. Commission rules currently provide that drivers may carry a whip of a certain length, which may be used in a conventional manner. Drivers are prohibited from kicking, and drivers must keep a line in each hand from the start of the race until 1/4 of a mile or one mile before the finish of the race.

Adding the requirements that lines must be kept in separate hands while racing, training or any other time when a driving a horse on track premise and that the use of the line must be restricted to the forearm and wrist action and not raised above the shoulder will clearly provide what is permissible and will also bring New York in line. With many other racing jurisdictions as well as the United States Trotting Association model rules. Setting a penalty, adding a set penalty structure for any violation of this rule would ensure that any successive offense within one year concerning whipping, kicking, or urging after an offense at any United States or Canadian racetrack would result in an increased penalty. Furthermore, the proposal would make clear that any indiscriminate use of the whip would, subject to the driver, to license.

This structure would provide greater consideration of past offenses, establish uniformity among New York's tracks, and is intended as a further safeguards to ensure the health and safety of race horses.

As mentioned, there was a previous discussion of this rule at the last meeting with Commission. Chairman O'Dwyer requesting input from the affected industry. To that end, I communicated with Joseph Geraldo, the chair of the Board of the United States Trotting Association and the President and Chief Executive Officer of the Standard Bred Owners Association of New York Mr.

Faraldo indicated that the Standard Bed Owners Association of New York has no objection. To the proposal of this rule, staff recommends that the Commission propose this rule may.

Chairman O'Dwyer: That's up for discussion now, Commissioners and I had some, but I'd like to hear from Commissioner Moschetti.

Chairman Moschetti: About four or five years ago. We had some open forums that were put together with jockeys and trainers to discuss the use of the whip. Or as they call it, the crop, with respect to the Thoroughbreds, and my position at that time was that there shouldn't be any use of the crop unless there was an emergency situation. That was a minority position I think at the time. And I had for two reasons. One, because I think the excessive use of the croppers or the use of the crop the way it was being done for Thoroughbreds was forcing horses to go beyond their will and run beyond their ability. And so I had great concerns about that. We were not unified as a Commission, but we did impose strict rules about the use of the crop, which I think were very effective. With respect to the Standard Bred I feel that there should be very strict rules against the use of the whip.

It should be only used when there are situations where safety is an issue, but I know that's going to be difficult. I do like to proposals here as a fall back and I think it should be very effective, but I think we should be cognizant. You know the perception, it's twofold with me. One about forcing the horses to race beyond their ability and the 2nd is the perception that the use of a whip or crop has on the public. I still constantly hear from people, both fans and non-fans about the concern they have with the whipping of horses and you know. I think we're it's pretty clear if you're talking to Scott Palmer and watching races and seeing what's going on, it's not that the crop or the whip hurts the horse. It's what it gets them to do on a course. So that's always a great concern. So if we're going to, you know, do anything. I think we should restrict the use of the whip.

And of course, kicking has no place, I think that. The penalties for kicking should be severe because there's no situation that would allow for that to happen. That is just it's cheating for one, and it's cruelty for another. So that's how I feel anyway.

Chairman O'Dwyer: Thank you, Commissioner. Actually I have the same opinion in terms of the kicking of the horse and I think we've I've asked the Commission the staff to think of a penalty where In my mind. first time, 30 days, second time, 90 days, third time, revocation of license the kicking.

I agree with Commissioner Moshetti that while one can say that you know the use of the whip, we can debate that, but it's been regular and it somebody could take it out of hand and might make a mistake of using. Taking kicking a horse and taking means that you have to take the feet out of the stirrups and make and kick an

animal is absolutely abhorrent to me and my amendment would be as I had indicated, first offense 30 days. Second offense, 90 days. Third offense. Revocation of. License.

Commissioner Crotty: Yeah, it's. Shouldn't tolerate a whole bunch of behavior. They talked about safety when they came in, right? Peter.

Commissioner Moschetti: They did and they did. And I did not think that that was a very persuasive argument. Certainly the jock, there were many jockeys that grew up and were trained and became very successful with the use of the crop. But. From my knowledge and what I thought you know, it wasn't for safety purposes. It was to urge the horse forward to race faster to win.

Chairman O'Dwyer: I would along with move to amend those the regulation to indicate what I just did for kicking and removing the feet from the stirrups.

Commissioner Moschetti; I would join in with that.

Robert Williams: So that would be specifically at 4117.8 H1.

Chairman O'Dwyer: All right, I'll hear, I have a motion and second on the amendment.

All in favor of the amendment?

Aye ...

Now to the main consideration of the rule. May I have a motion.

Any other business before the Commission? No. OK. Before we get. I wanted to make my usual report to the Commissioners about where I've been at.

Like a few. As the executive director has indicated, I have been, we've met a number of times with our advertising agency McCann in regards to the lottery. And we've been really working with them and in terms of getting the message out about the fact that and I think it's important for us as a Commission and for our employees to know that what we're doing is providing a substantial amount of money to education in New York.

I'm looking forward. We've you've heard from our executive director about. The first two phases, the next phase is going to be what's going good to go out on the media and we're looking forward to receiving that soon. And I think by September you'll see a very substantial campaign, media campaign brand awareness. So that New Yorkers are entitled to know. As I said to people I said, yeah, if you lose, at least

your kid wins. And I think that's really an issue that we want to bring out. So I'm really looking forward to that.

Secondly, the Executive Director and I have met with the and have gone out to the race track chaplaincy who does fabulous work to the backstretch workers both in the Belmont and in Saratoga, and we were out at their new facility, which is quite lovely in Belmont and what we have done together is we are have established with the head of the chaplaincy and consultant process couple of months we'll be getting on the zoom calls with him to really go over the issues that he sees and we see in terms of the could wellbeing of the backstretch workers and I think it's historic in the sense that the Commission is really working hand in hand with them to make sure that the backstretch workers are treated fairly by all.

We are also working on legislation and on work in regard to the aftercare of horses after they can no longer race, we've been there's new legislation that has come out really to make sure that the horses after their they have done their job as as horses and raised and raised their head, that they're taking care of one that they're taking care of well. In their in their golden years away from racing, and two that we now have anti slaughter legislation that requires us, not this Commission necessarily, but the Department of Agriculture and all involved in in horse racing to make sure that are those horses are not sent out of state for slaughter. I'm working specifically now. We've had meetings with the Department of Agriculture and the Thoroughbred Fund. And we are working on a way of policing this a lot better than we have in the past that I'll be talking to you probably at our next meeting, hopefully with the where we are with that. But we're in the middle of that. I think we're everybody is taking that very seriously and I thank our Executive Director for his work on that. But it's really very, very important.

I'm very excited to report to the Commission and to the to our constituents that we are now working. Summer internships for college and maybe even high school students working in in in the number of areas we we're small agency but we're unique in the sense that we have many, many different aspects and we were talking about law. Veterinary medicine marketing. All of that and more. And we would like very much. I'm relying on our director of Communications and Community, Lee Park, to come up with a report to the Commissioners you will find on the on the because of the importance of this.

The Executive Director has. Suggested that this be on the agenda for each ensuing meeting until we make sure that this is all set so you'll hear a report from our Executive Director at each ensuing meeting as to how what progress we're making in that regard. But I think this is really exciting.

For all of us to know that young people can get involved and learn about the various aspects of it, the Commission has worked on.

Finally, Commissioner hammer and I were out at Belmont and I was out at Belmont with. Our executive director the other day when we were visiting the racetrack chaplaincy, I'm happy to report that NYRA has started, not started, is in the middle of working on putting up a new residence for the workers at. At Belmont and we expect that that will be fully functional by the. By the winter meet.

Additionally, I'm informed by our Executive director. I have been up there that the residence for our workers at Saratoga is similarly. Ready or we'll be ready soon for occupancy and that will make a major difference in the lives of the workers on the backstretch. And I look forward. To seeing many, if not all, of you at Saratoga for the Belmont. It promises to be a really exciting time for the industry and for upstate.

And with that, I will take a motion to. Adjourn.