



The Race Horse Development Fund: How Pennsylvanians Bankroll the Sport of Kings



EDUCATION VOTERS
of Pennsylvania

By Sharon Ward
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Education Voters of PA is a statewide, nonpartisan, nonprofit organization that was established in 2007 to promote a pro-public education agenda with elected leaders and the public. We believe that all children, no matter their ZIP code, have a fundamental right to a quality public education that will provide them with opportunities to succeed in school and to realize their potential as engaged citizens after graduation. Our work focuses on securing adequate and equitable state funding for public education and promoting sound education policy that will help eliminate deep disparities in access to quality educational resources that leave low-income students and students of color behind. Education Voters of PA is a project of the Keystone Research Center.

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Cover Photo: "File:Watching the Horses - The Meadows Racetrack & Casino - Washington - Pennsylvania - USA (47038978634).jpg" by Adam Jones from Kelowna, BC, Canada is licensed under CC BY-SA 2.0

Executive Summary

Act 71 of 2004 created the Pennsylvania Race Horse Development and Gaming Fund, which legalized casino gambling and allocated taxpayer funds to support the race horse industry.

Since that time, the Commonwealth has spent more than \$3 billion supporting the industry. Every aspect is subsidized, including purses paid to owners of winning horses, support for breeders, and health and pension benefits for the horsemen who run the races, as well as drug test testing of horses, and promotional costs of the racetracks.

Education Voters of Pennsylvania examined the Race Horse Development Fund to assess its success and its value to Pennsylvania taxpayers. We address the following questions:

(1) What is the history of Pennsylvania's subsidy of the racing industry and how are Race Horse Development funds spent? (2) Who benefits from the state's spending on the racing industry? (3) How does Pennsylvania's tax subsidy compare to other states'? (4) Has the investment been successful? (5) What kind of oversight is provided to the industry by the State Racing Commission and the Pennsylvania Department of Agriculture? How transparent are operations?

The report finds that the racing industry receives generous tax subsidies but provides very little economic benefit to the state.

- The Race Horse Development Fund is the single largest economic development expenditure in the state.
- Pennsylvania has a very generous subsidy program, among the highest in the nation. Only New York spends more.
- Pennsylvania subsidizes horses three times as much as it subsidizes students attending PASSHE schools.
- PRHDF generates little economic benefit to the state. Horse racing generates less than 10,000 direct jobs, while the tourism industry generates 310,000 direct jobs and receives a fraction of the state taxpayer support.
- Purses are heavily subsidized with tax dollars. In 2003, 94% of purses were paid from wagers; by 2019 that number was down to only 11%. Half of purses are won by non-residents, a total of \$80 million.
- The program benefits a small number of breeders and owners. There are 47 standardbred breeders and only 29 thoroughbred stallion farms in the Commonwealth.
- Public interest in horse racing is small and getting smaller. Track attendance is down and the amount wagered by Pennsylvanians on races held in Pennsylvania is small and declining. Daily attendance for the Williamsport Crosscutters minor league baseball team is greater than attendance at any of the state's six horse tracks.
- In 2019 the PRHDF subsidy of \$238 million was more than five times the amount wagered by Pennsylvanians on races run on Pennsylvania tracks.
- Breeder awards are quite lucrative. The top 20 thoroughbred breeders earned \$3.4 million in 2018 and the top 10% of stallion breeders took home almost 60% of stallion awards.
- The industry lacks independent accountability. Members of the State Racing Commission are allowed to own horses and collect both purses and breeder funds which are overseen by the Racing Commission. Four of the members are from the industry and a fifth has an economic interest in the state's oversight activities.

In contrast, no members of the Pennsylvania Gaming Control Board can have an economic interest in a casino.

Two other areas of note that require further investigation:

- Performance enhancing drugs are a concern throughout the industry. Every winning horse is tested at taxpayer expense. In March 2020, 27 people were indicted in NY for doping. Eleven of the 27 were licensed in PA although none of the activity was alleged to have taken place in the Commonwealth.
- Since 2010, 1400 hundred racehorses have died in Pennsylvania, including more than 700 at Parx Racing. In 2019, the public became aware of the problem when several dozen horses died in a matter of weeks at California's Santa Anita race track, but the track that had the most horse deaths that year was Pennsylvania's Parx Racing with a total of 59 deaths.

There is declining interest in horseracing nationwide, but Pennsylvanian's racing industry is insulated from those changes by taxpayer subsidy. There is little appetite or activity to adapt to changing market conditions, but there is a great deal of energy spent to protect the lucrative purses. At the Parx racetrack every entrant pays a fee to the horsemen, a part of which goes to the horsemen's political action committee called the "Purse Protection Fund."

We recommend eliminating the PHRDF and reallocating these funds to more productive economic purposes -- investing in Pennsylvania's students and Pennsylvania's future workforce.

Introduction

Pennsylvania's horseracing industry has a storied history—but it's not a good story. Over the last 15 years, Commonwealth taxpayers have provided more than \$3 billion in subsidies to the industry on the premise that racing is vital to Pennsylvania's agricultural and tourism industries. In fact, racing is a small and declining industry that generates little economic impact and little public interest. The beneficiaries are a small number of racing enthusiasts and hobbyists who have profited from public investment while avoiding public scrutiny.

Two styles of racing developed in the state. Harness racing emerged from local horse and buggy races at county fairs, and thoroughbred racing—the sport of kings—was imported from Europe as a diversion for the gentleman's class. Unregulated until the 1950s, racing is associated with gambling in folklore and in fact. Our culture is filled with references to horseracing and gambling—think *Guys and Dolls*, *The Sting*, or *Peaky Blinders*.

Pennsylvania passed its first laws regulating the racing industry in 1959.¹ The goal was to outlaw gambling except under a highly regulated structure established to prevent corruption. Gambling on harness racing was permitted only at a limited number of state licensed tracks, and track workers were licensed. Thoroughbred racing was brought under similar state regulation in 1967.

Initially, horse racing was profitable. Winners were paid from the betting pool, track owners and horse owners made money on the arrangement, and the state received 5% of the take—or handle—to support its regulatory costs and contribute to the General Fund.²

State subsidy began in 1967 when the industry lobbied for the creation of the Sire Stakes Fund for harness racing and expanded in 1974 when the Breeders Fund for thoroughbred horses was established. Purse subsidies were added in 1978.³ These funds diverted a portion of the state's earnings to promote horse breeding through additional payments to breeders and owners of Pennsylvania-bred or -sired horses. Over the next three decades, those subsidies continued.⁴

By the early 1980s, the industry was already showing signs of decline. In 1981, several changes were made to the law to redistribute the funds between the interested parties: the state, the tracks, and the horsemen. The state's share—the pari-mutuel tax—was reduced and the take for the other parties increased, a pattern that would continue for 40 years.⁵

By the early 2000s, the industry was once again asking for support. In 2004, the General Assembly passed Act 71, the Pennsylvania Race Horse Development and Gaming Act (PRDGA), which permitted slot machines at racetracks and authorized a limited number of new licenses to track-based and freestanding casinos. A 55% tax on slot revenue was imposed, and a portion of those tax dollars, up to 12%, was allocated to support the horse race industry. The Commonwealth now has one of the most generous subsidy programs in the nation.⁶

1 Joint State Government Commission, General Assembly of the Commonwealth of Pennsylvania. 2017. "Horse Racing in Pennsylvania, a Staff Study," February 2017. p. 3. Accessed at: <http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2017-0301%20horse%20racing%20in%20pennsylvania%20final.Pdf>.

2 Ibid. State funds from harness tracks were deposited into the State Harness Racing Fund to pay expenses of the Harness Racing Commission; three-quarters of the remainder went to the General Fund. Funds from thoroughbred tracks were deposited into the State Horse Racing Commission. After paying expenses of the Commission and Department of Revenue, the remainder was paid to the General Fund.

3 Ibid p. 5.

4 Ibid p. 80-81.

5 Ibid. p. 6.

6 Act of July 5, 2004 (P. L.572, No. 71). Accessed at: <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&title=04&div=0&chpt=11>.

Since the passage of Act 71, taxpayers have provided \$3 billion in subsidies to the horse racing industry, money that could have been spent on property tax relief, education funding or other economic development. Who benefits, and the impact of that investment, is the subject of this paper.

What becomes apparent is that a small number of “horsemen,” owners, trainers, and breeders of horses are heavily subsidized for their participation in the sport. State funds pay the vast majority of purses for the owners. Pennsylvania owners and breeders receive additional payments to compete in certain races. Breeders, trainers, and other track personnel receive pensions and health insurance for themselves and their families. Tax dollars pay to drug test every winning horse (30,000 in 2019), and racetrack advertising and promotions have been paid for with tax dollars since 2017. The public pays the cost while the horsemen reap the benefit.

Pennsylvania’s spending on the racing industry is its single largest economic development investment and as such demands continuous, rigorous scrutiny. Taxpayers have the right to ask what they are getting in return.⁷

The race horse industry argues that it is an important part of the state’s agricultural economy and the subsidies are necessary, but the arguments for taxpayer support—greater tourism, new jobs, farmland preservation, and support for family farms—haven’t borne out. Despite this investment, there are fewer horses bred each year and fewer people in the stands. The industry creates few full-time jobs and is a small share of the overall equine economy.

The system is also rife with conflicts of interest and self-dealing. The industry regulatory body, the State Racing Commission, is effectively controlled by the horsemen—the very beneficiaries of millions of state dollars in subsidies. The breeding funds operate with little public oversight and very little accountability to taxpayers.

Across the country, horse racing, and gaming overall, are changing as a result of changing demographics, interests, and sensibilities. But Pennsylvania’s almost \$3 billion subsidy has shielded the racing industry from grappling with those changes. It’s like a giant party on the Titanic except the guests know what is coming.

The coronavirus is likely to hasten these changes. Owners may be reluctant to travel all over the country with their horses, and whatever small tourist interest that existed is likely to dry up. But it would be a mistake to maintain the state’s investment in an attempt to stave off further decline. The vast majority of the racing fan base is out of state. There is talk of creating a small number of supertracks to meet the demand and letting the market right size the industry rather than continuing to have it propped up by state tax dollars.

It is hard to discern the value to the public from the Commonwealth’s more than \$200 million annual investment in the Race Horse Development Fund. Rather than continue the subsidy, this report recommends eliminating the PHRDF and reinvesting these funds into the state’s future workforce through pre-k, public school funding, and/or public higher education.

7 Independent Fiscal Office. 2016. “Economic Development Incentives,” Research Brief – 2016-2. March 2016. Accessed at: <http://www.ifo.state.pa.us/download.cfm?file=Resources/Documents/RB-2016-02.pdf>.

Methodology

This paper is focused on several questions: (1) What is the history of Pennsylvania's subsidy of the racing industry and how are Race Horse Development funds spent? (2) Who benefits from the state's investment in the racing industry? (3) How does Pennsylvania's tax subsidy compare to other states? (4) Has the investment been successful? (5) What kind of oversight is provided to the industry by the State Racing Commission and the Pennsylvania Department of Agriculture? How transparent are operations?

A number of sources are used including Pennsylvania Gaming Control Board Pari-Mutuel Benchmark Reports and Statistical Supplements, state budget documents, and two very fine studies from 2017 prepared by the Pennsylvania Joint State Government Commission and the Independent Fiscal Office.⁸

Information on Pennsylvania Race Horse Development Fund (PRHDF) programs come from the websites of the horsemen's associations and the Department of Agriculture. Background on thoroughbred programs comes from the Jockey Club and Thoroughbred Owners and Breeders Association and state subsidy information was drawn from individual state reports and websites.

The horseracing industry has a very visible and active online presence and information is drawn from sources such as Bloodhorse, Equibase, the Paulick Report, and horseracewrongs.com.

The author reviewed minutes of Racing Commission meetings and independent audit reports of the horsemen's associations prepared on behalf of the Bureau of Audits, Office of the Comptroller, Office of the Budget.



Spectator seats at Parx Casino and Racing in Bensalem, PA on September 14, 2013. (Colin Kerrigan / Philly.com)

⁸ Joint State Government Commission General Assembly of the Commonwealth of Pennsylvania 2017. Horse Racing in Pennsylvania: A Staff Study. February 2017. Accessed at: <http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2017-03-01%20Horse%20Racing%20in%20Pennsylvania%20Final.pdf>.

Section I. Horse Racing in Pennsylvania

Background

There are currently 13 casinos licensed in the Commonwealth. Six of the 13 are casinos affiliated with racetracks, generally called Category 1 casinos or “racinos” while the seven other licenses were awarded to freestanding and resort-based casinos.⁹

A Category 1 casino license is a valuable commodity. These casinos were the first to open and received preferential status in subsequent legislation to expand gaming, including table games, satellite locations and internet gaming (iGaming).¹⁰

There are two types of horseracing. In harness racing the horse pulls a driver in a cart, called a sulky, and in thoroughbred racing a jockey rides on the horse. There are special breeds of horses for each racing type, Standardbreds (SB) for harness racing and Thoroughbreds (TB) for thoroughbred racing. These two parts of the industry operated separately for fifty years until the state established a single commission for both types of horseracing in 2016.

There are three licensed harness tracks - The Meadows in Washington County (est. 1963), The Downs at Mohegan Sun Pocono in Luzerne County (est. 1965), and Harrah's Philadelphia Casino in Delaware County (est. 2006) and three thoroughbred tracks - Parx Casino in Bucks County (est. 1974), Hollywood Casino at Penn National Racetrack in Dauphin County (est. 1972) and Presque Isle Downs and Casino in Erie County (est. 2007). Racing occurs all year although each track operates a different schedule.¹¹ Patrons can wager on live races or on races simulcast from other racetracks.

Pennsylvania is one of 31 states that operate tracks for commercial horseracing. While there are tracks throughout the US and Canada there is a considerable concentration on the East Coast. Pennsylvania and its border states (Delaware, Maryland, New Jersey, New York, Ohio, and West Virginia) have almost 30% of the tracks in the nation. This concentration has driven competition between the states and helped fuel the drive for state subsidy.¹² States that subsidize horseracing have a larger number of tracks than those that don't.

The gambling works like this. The money bet on races is called the live handle. In-state bets may be placed at the track, in track-owned off-site facilities, at other Pennsylvania racetracks, or by phone or internet. Pennsylvanians can bet on races run in Pennsylvania or on races run at other tracks nationwide. Individuals outside the state may also place bets on races run at Pennsylvania tracks through what is known as secondary pari-mutuel organizations.

All in-state wagers—on track, phone or internet are subject to the state pari-mutuel tax. The tax rate is 1.5% of the amount wagered each day on regular bets, 2.5% on what are called exotic bets (exacta, daily double, trifecta) and a share of the breakage (the portion of wagers that remain when payouts are rounded to 10 cents). Wagers from out of state gamblers are not subject to this tax.¹³

The money is divided up at the track. The racetrack gets the first cut—generally 17% for wagers made on Pennsylvania races and 4% for out-of-state wagers—minus the state pari-mutuel tax and tote expenses.¹⁴ The

9 Pennsylvania Gaming Control Board, 2018. “2018-2019 Annual Report,” October 1, 2019. Accessed at: https://gamingcontrolboard.pa.gov/files/communications/2018-2019_PGCB_Annual_Report.pdf.

10 House Appropriations Committee – Democratic. 2019. “Gaming at a Glance,” January 22, 2019. Accessed at: https://www.pahouse.com/Files/Documents/Appropriations/series/3075/BP_GamingAtAGlance_012219.pdf.

11 Joint State Government Commission, op. cit., p. 5.

12 The author used a variety of sources to get the most up to date information including <https://www.officialusa.com/stateguides/horseracingtracks/> and <https://horseracingwrongs.org/active-u-s-racetracks/>. Does not include fair racing or steeplechase.

13 Joint State Government Commission, op. cit., p. 6.

14 The cost to calculate odds for live races. Jt. State Government Commission, op. cit., p. 65.

remainder is paid out to bettors. In most races, the winning horse earns 60%, the second place horse earns 20%, 10% for third, 5% for fourth, 3% to fifth and 2% to sixth, although some tracks may differ. In some cases, every horse who runs gets a share of the purse. The bettors only win when a horse comes in first, second or third.

The wagers or live handle pay for purses and track operations. The pari-mutuel tax goes to the commonwealth to the Racing Fund to pay for the state's oversight of the industry.¹⁵

Section II. State Subsidy and the Race Horse Development Fund

State subsidy for the industry began in 1967, when the industry lobbied for the Sire Stakes Fund for harness racing, and expanded in 1974 when the Breeders Fund for thoroughbred horses was created. These funds diverted a portion of the state's earnings to promote horse breeding through additional payments to breeders and owners of Pennsylvania bred- or -sired horses. Over the next three decades, those subsidies continued.

Subsidy amounts were generally small. From 1975-1981, breeder awards totaled \$2.5 million and purse subsidies totaled \$8.3 million. After the 1981 legislative changes, total breeder, owner, stallion and purse subsidies were \$2.5 million, growing to \$9.0 million in 2001.¹⁶

Act 71, the Race Horse Development and Gaming Act of 2004, vastly expanded the amount of state money available to support breeders, owners, trainers and other track personnel collectively known as "the horsemen."¹⁷

The law imposed a 55% tax on gross terminal revenue from slot machines (GTR), equal to total wagers minus a deduction for casino promotional play. In 2018-19 total slots revenue was \$2.4 billion from 24,869 slot machines. Casinos paid a tax of \$1.2 billion to the commonwealth.¹⁸ Act 71 allocated slots tax revenue as follows:¹⁹

- 34% of the 55% for property tax relief
- 4% to counties and municipalities hosting casinos
- 5% for economic development activities
- An amount not to exceed 12% to the Race Horse Development Fund.

The theory behind Act 71 was to make the purse—winnings available for each horse race—higher. This would increase the number and quality of horses running in a race, which would increase attendance and the amount wagered—the live handle. Gamblers want a real race, a "field" of eight horses generates better odds and better payout than a field of five horses.²⁰

To support horse breeders and owners, the PA Breeding Fund and Sire Stakes Fund were expanded and a new breeding fund for standardbred horses was created.

15 Commonwealth of Pennsylvania. 2019. Governor's Executive Budget, 2019-20. p. H67. Accessed at https://www.budget.pa.gov/PublicationsAndReports/CommonwealthBudget/Documents/2019-20%20Proposed%20Budget/2019-20_Budget_Document_Web.pdf.

16 Joint State Government Commission, op. cit., Author's calculations. Table 16-17, p. 79-81.

17 Act 71 of 2004. 4 P.A. C.S Section 1103 definitions. Accessed at: (<https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2004&sessInd=0&act=71>).

18 Pennsylvania Gaming Control Board. 2019. "Annual Report." October 1, 2019.

19 Pennsylvania Gaming Control Board. "Racetrack Casino Benchmark Report". p. 3 Accessed at https://gamingcontrolboard.pa.gov/files/reports/2018_Pari-Mutuel_Benchmark_Report.pdf. House Appropriation Committee, op. cit., 2019. Subsequent legislation reduced the municipal share to a flat \$10 million for most casinos. License fees and table games revenue go directly to the General Fund.

20 Joe Drape. 2019. "Where Have All the Race Horses Gone," New York Times. August 23, 2019. Accessed at <https://www.nytimes.com/2019/08/23/sports/horse-racing/horse-shortage.html>, Joint State Government Commission, op. cit., p. 62.

Taxpayer dollars subsidize every aspect of the horseracing industry. Purses, which were paid from the live handle (wagers) are now primarily supported with tax dollars. The Fund pays health insurance for the horsemen and trainers and their families. The restricted account pays for the Equine Toxicology Lab, which screens every winning horse for performance enhancing drugs and beginning in 2017, one percent of funds were allocated to pay for marketing and promotion for the tracks. The PRHDF shifts the cost of running a gaming establishment from the track owners and horsemen to the citizens of the Commonwealth.²¹

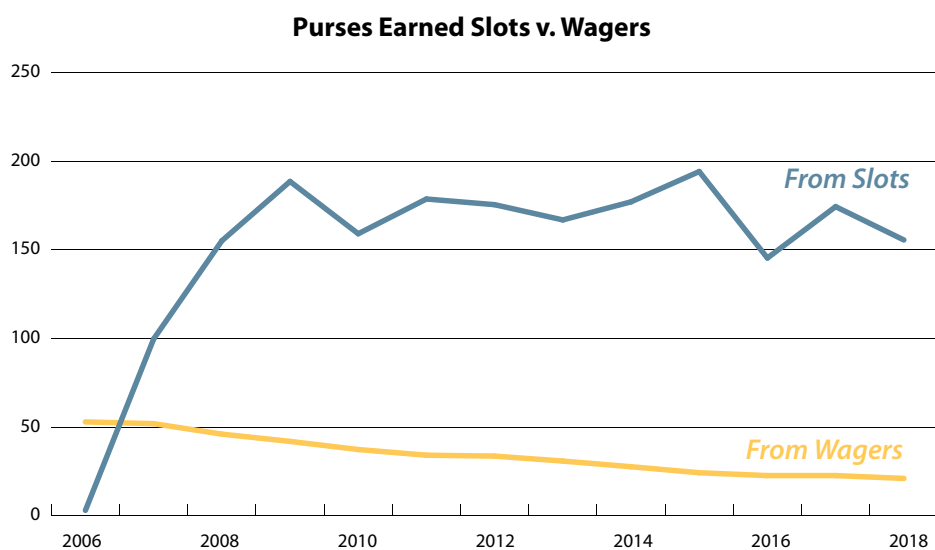
Table 1 shows the distribution of Race Horse Development Funds since its inception. It will be a critical reference for the discussion below which explains each line in the table and thus where each dollar of the Race Horse Development Fund goes.

Table 1. Race Horse Development Fund Distributions

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Purses	\$ 3.0	\$ 99.7	\$ 155.1	\$ 188.6	\$ 157.1	\$ 181.3	\$ 177.3	\$ 165.6	\$ 178.8	\$ 193.7	\$ 141.4	\$ 170.2	\$ 152.6	\$ 159.8
PA Breeding Fund	\$ 0.2	\$ 8.4	\$ 14.7	\$ 18.2	\$ 16.2	\$ 18.6	\$ 18.2	\$ 17.1	\$ 18.4	\$ 20.2	\$ 14.8	\$ 18.2	\$ 16.7	\$ 17.8
Sire Stakes Fund (SB)	\$ 0.2	\$ 5.8	\$ 8.2	\$ 9.7	\$ 7.6	\$ 8.8	\$ 8.6	\$ 8.0	\$ 8.7	\$ 9.3	\$ 6.7	\$ 7.9	\$ 6.9	\$ 7.1
SBDF (SB)	\$ 0.2	\$ 5.8	\$ 8.2	\$ 9.7	\$ 7.6	\$ 8.8	\$ 8.6	\$ 8.0	\$ 8.7	\$ 9.3	\$ 6.7	\$ 7.9	\$ 6.9	\$ 7.1
Health / Pension	\$ 0.2	\$ 5.0	\$ 7.8	\$ 9.4	\$ 12.2	\$ 11.4	\$ 11.4	\$ 11.2	\$ 11.1	\$ 11.2	\$ 11.0	\$ 11.3	\$ 11.3	\$ 11.3
State Racing Fund									\$ 4.2		\$ 6.7	\$ 10.9	\$ 11.7	\$ 12.4
General Fund					\$ 68.8	\$ 46.9	\$ 45.9	\$ 22.8						
Farm Show							\$ 2.5	\$ 2.5						
Restricted Account								\$ 17.7	\$ 17.7		\$ 45.4	\$ 11.9	\$ 34.3	\$ 19.7
Grand Total	\$ 3.8	\$ 124.7	\$ 193.9	\$ 235.7	\$ 269.5	\$ 275.8	\$ 272.5	\$ 252.9	\$ 247.6	\$ 243.6	\$ 232.8	\$ 238.2	\$ 240.4	\$ 237.7

Source: PGCB Statistical Supplement

PURSES: \$159.8 million



Prior to Act 71, the vast majority of purse money came from the funds wagered on races. Act 71 dramatically increased purse amounts by allocating 80% of the PRHDF to purses, permanently shifting the cost from bettors to taxpayers. In 2003, total purses were \$56 million with 94% coming from live handle, by 2019 the purses had risen to \$180 million with 89% coming from the PRHDF and 11%—just \$20 million—coming from wagers. The purses are paid to the owners, who distribute 10% to the jockeys, drivers and

Source: IFO page 10, PGCB Stat supplement 2018 p.64

21 Commonwealth of Pennsylvania, Governor's Executive Budget 2019-20 p. H56. Accessed at: https://www.budget.pa.gov/PublicationsAndReports/CommonwealthBudget/Documents/2019-20%20Proposed%20Budget/2019-20_Budget_Document_Web.pdf.

trainers.²² The trainer gets a fee plus a percentage of the horse's monthly winnings.

Horsing can be a lucrative profession. While earnings in Pennsylvania are not available, the Delaware Thoroughbred Commission makes trainer and jockey earnings public. Among trainers the top earner made \$622,695, five earned more than \$400,000, and 10 others earned more than \$200,000. The two top jockeys earned over \$1 million, and 19 in total earned more than \$200,000.²³ A top trainer in Pennsylvania made \$3.4 million in 2009.²⁴

BREEDERS FUNDS and STAKES RACES: \$32.0 million

Pennsylvania Breeding Fund: Thoroughbred Horses: \$17.8 million

The Pennsylvania Breeding Fund provides awards to breeders, stallion owners, and owners of winning Pennsylvania-bred thoroughbred horses. The Breeding Fund was created in 1974 and payments ranged from \$804,000 in 1982 to \$3.5 million in 2002. Act 71 quadrupled the fund, which at its highest in 2015 paid out more than \$20 million in bonuses.

The bonus scheme is lucrative. A 40% bonus is paid to breeders for horses that are both PA-bred and PA-sired or a 20% for a PA-bred thoroughbred sired by a non-registered (out of state) sire. There is a bonus of 10% of the purse for breeders of stallions. Owner awards and additional purses are paid out of the remaining breeding fund, one-half to PA-bred and PA-sired thoroughbred owners, and one-half to PA-bred-only thoroughbred owners. If funding thresholds aren't met, rewards are reduced.²⁵

The system is complicated, but the Pennsylvania Breeders Association has an infographic to explain how a registered Pennsylvania-bred horse can earn \$56,700 on a first place win worth \$27,000.²⁶

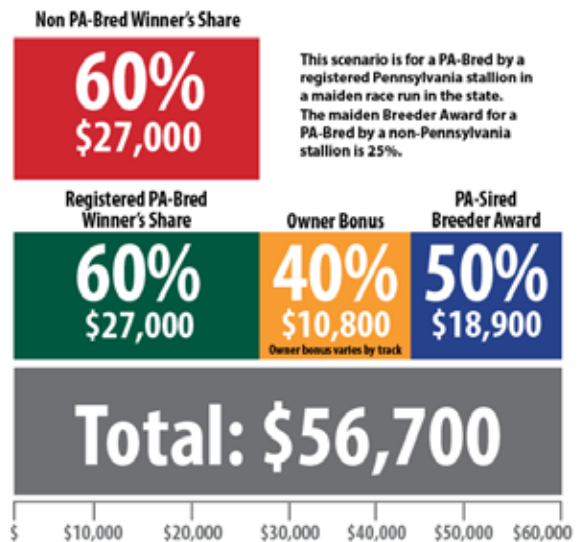
Sire Stakes: Standardbred Horses: \$7.1 million

The Sire Stakes provide additional purse money in a series of eight races per racing division (stallion, 2-year-old, 3-year-old) that feature harness horses sired by registered PA stallions. In 2019, the schedule included 32 races at the Meadows, 16 at Harrah's, and 16 at Pocono Downs with winners from each competing in championship races. Sire Stakes funds also support purses at harness races run at Pennsylvania county agricultural fairs. In 2019, there were 20 fair race locations.²⁷

These bonuses are also quite lucrative: in the 2019 Sire Stakes races leading up to the Harrah's championships, for 2-year-old trotters, 22 of 40 horses competing had earnings ranging from \$108,376 for the leader to \$5,652

PA-Bred Maiden Earning Potential

How a registered PA-Bred can earn over \$56,000 from a \$45,000 purse compared to a non PA-Bred in any maiden race run in the state.



22 Joint State Government Commission, op. cit., p. 59.

23 Delaware Thoroughbred Racing Commission. 2017. "The Year in Review." Accessed at: https://agriculture.delaware.gov/wp-content/uploads/sites/108/2018/02/2017-dtrc-annual-report_d.pdf.

24 David Wenner. 2019. "Horsing's Uncomfortable Truth," Patriot News. May 1. 2019. Accessed at: <https://www.pennlive.com/news/2019/05/horse-racings-uncomfortable-truth-horses-die-at-a-rate-of-more-than-one-per-week-in-pa.html>.

25 Joint State Government Committee, op. cit., p. 85.

26 Pennsylvania Horse Breeders Association. Webpage: "Why Breed in PA." Accessed at <https://pabred.com/about-phba/why-breed-in-pa/> on May 15, 2020.

27 Pennsylvania State Harness Racing Commission. 2019. "PA Fair Harness Racing Guide," 2019. The Pennsylvania State Racing Commission. Accessed at: https://www.phha.org/uploads/2/0/4/8/20486298/2019_pa_harness_racing_fair_guide.pdf.

for the lowest performing winner. For the trotting fillies, 24 of 55 horses received awards with the highest earners making \$113,562 and the lowest earner \$9,505. For 2-year-old pacing fillies, the top earner made a whopping \$138,080, while the lowest performing winner earned \$3,064. Of 30 competitors in those races, 18 earned Sire Stakes awards.²⁸

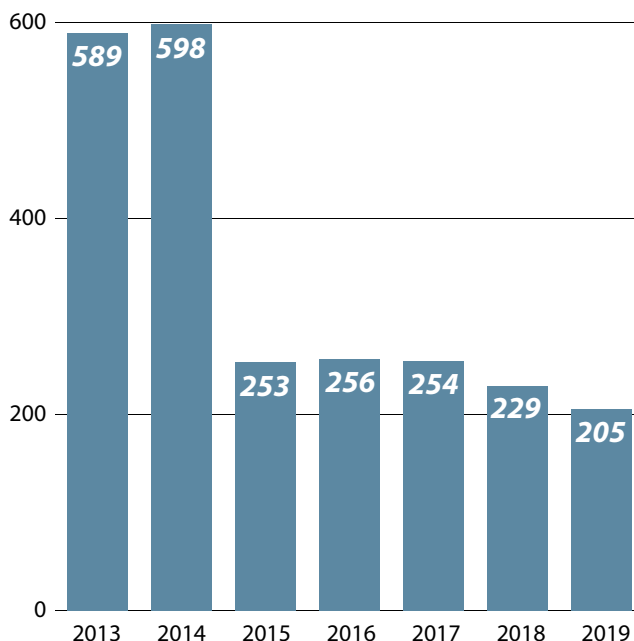
A minimum-wage worker in Pennsylvania working full-time earns \$14,750 per year. A harness horse, running in eight races over the summer can bring in three, four or five times that amount.

Standardbred Breeders Development Fund: \$7.1 million

This fund provides taxpayer-supported incentives for horses to breed and stud in Pennsylvania. Owners do not have to be Pennsylvania residents, but since 2015 horses must meet residency requirements (180 days for broodmares and 135 days for stallions) and be registered with the Pennsylvania Department of Agriculture.

Prior to 2015 mares that were bred to a Pennsylvania sire did not have to spend a single day in Pennsylvania to be eligible for an award. After the rules tightened the number of breeder’s awards fell, from 598 in 2014 to 253 in 2015. Despite this sharp reduction in eligible horses, the allocation for the SBDF remained the same, providing a windfall for the remaining breeders.

Standardbred Breeders



Source: 2019 Pennsylvania Gaming Control Board Benchmark Report

Health Insurance and Pensions: \$11.3 Million

In the late 1990s and early 2000s there was growing interest in wages and living conditions of racetrack workers, concerns about track injuries, and an acknowledgement of the lack of healthcare for workers.²⁹ Many track workers were immigrants, including undocumented workers from Mexico and Guatemala, adding language barriers to the problem.³⁰

One of the goals of Act 71 was to “improve the living and working conditions of personnel who work and reside in and around the stable and backside areas of racetracks”.³¹ The PRHDF provides funding for health insurance and pension benefits. The funds are deposited into accounts for the four horsemen’s associations who administer the program. \$250,000 is set aside to pay health insurance premiums for jockeys. The Pennsylvania Gaming Control Board approves the pension plans.

- The Pennsylvania Harness Horsemen’s Association, which covers Pocono Downs and Harrah’s, provides retirement for trainers and drivers and insurance for owners, drivers, and trainers.³²

28 The Meadows Standardbred Owners Association. 2019. “Pennsylvania Sire Stakes Standings as of September 2.” September 3, 2019. <https://www.themsoa.com/pennsylvania-sire-stake-standings-updated/>

29 U.S. Department of Health and Human Services. 2000. “HCH Cares for the Underbelly of Life at Racetracks,” Health Resources and Services Administration: Healthcare for the Homeless Program, Opening Doors Newsletter, Volume 8 No. 3 Summer 2000

30 Castañeda, H., Kline, N., & Dickey, N. (2010). “Health Concerns of Migrant Backstretch Workers at Horse Racetracks.” Journal of Health Care for the Poor and Underserved 21(2), 489-503. doi:10.1353/hpu.0.0300. Accessed at: (<https://muse.jhu.edu/article/380405>).

31 Act 71, op. cit. Legislative intent.

32 Pennsylvania Harness Horsemen’s Association. “Benefits of the PHHA.” Accessed at: <https://www.phha.org/benefits-of-the-phha.html>.

- The Meadows Standardbred Owners Association provides retirement benefits and health insurance to drivers, trainers, and grooms, as well as insurance products.³³
- The Pennsylvania Thoroughbred Horsemen's Association, active at the Parx Racetrack, provides health insurance and pension benefits to trainers who meet certain conditions. It also provides a stable employee benefit program for assistant trainers and stable employees, but makes clear it is an emergency fund and not a health insurance program.³⁴
- The Pennsylvania Horsemen's Benevolent and Protective Association operates at both the Penn National and Presque Isle racetracks. It provides dental, physical therapy, prescriptions, and hospitalization for trainers and their employees who have 30% of starts at the track and pension benefits to trainers.³⁵

It is not entirely clear whether the intent of the legislation to share the benefits with trackside employees has been successful. Information on the expenditures is available in the yearly audits of the Horsemen's Associations conducted by the Office of the Comptroller, but other details on the programs, including the number of people that participate, the cost to the enrollee, and the level of benefits are not publicly available.³⁶ What is clear is that little of the \$3 billion public investment has trickled down to track workers.

Testing for Performance Enhancing Drugs: \$13.8 Million

State regulations require the winner of every race to be tested for the presence of performance enhancing drugs. The Department of Agriculture contracts with the Pennsylvania Equine Toxicology and Research Lab (PETRL), operated by the University of Pennsylvania, to perform the tests. The lab performed 29,503 tests in 2017, 28,611 tests in 2018, and 30,046 tests in 2019.³⁷ Act 7 transferred funds from the PRHDF to the state Racing Fund to support the lab's cost. That provision was set to expire in June 2020 but was extended by the General Assembly until June 2022.

Accusations of horse doping have dogged the industry. An FBI investigation at the Penn National Racetrack in 2014 implicated 10 people, resulting in a jail term for the trainer at the heart of the investigation. During the trial in 2016, another trainer at the track and former president of the Pennsylvania Horsemen's Benevolent and Protective Association said that, at the time, "almost everyone cheated" but that "testing wasn't done at the time." The Commonwealth regulations regarding drug testing were issued in 1980.³⁸ "For some horsemen that's the cost of doing business," Kathryn Papp, an equine veterinarian based near Harrisburg told the Philadelphia Inquirer. "They still see horses as livestock, as commodities. But these are intelligent animals. They bond with their caretakers. People don't realize how aware they are."³⁹

On March 9, 2020, the U.S. attorney for the Southern District of New York indicted 27 people for a "widespread, corrupt" doping scheme. Eleven of those indicted are licensed in Pennsylvania, although none of the alleged illegal

33 The Meadows Standardbred Owners Association. "Membership Benefits." Accessed at: <https://www.themsoa.com/membership-benefits/>.

34 The Pennsylvania Thoroughbred Owners Association. "Stable Employee Benefits." Accessed at: <https://patha.org/health-and-pension/stable-employee-benefits/>.

35 The Pennsylvania Horsemen's Benevolent and Protective Association. "Pension." Accessed at: <https://www.pahbpa.com/pensions/>.

36 Pennsylvania Office of the Budget. Audit Reports. Accessed at: <https://www.budget.pa.gov/PublicationsAndReports/AuditReports/Pages/default.aspx>.

37 Communication with the Pennsylvania Department of Agriculture

38 Paulick Report Staff. 2019. FBI Probe: Penn National Trainer Murray Rojas Sentenced to 27 Months in Federal Prison," May 6, 2019. <https://www.paulickreport.com/news/the-biz/fbi-probe-penn-national-trainer-murray-rojas-sentenced-to-27-months-in-federal-prison/>

39 <https://www.inquirer.com/business/a/pennsylvania-horseracing-deaths-integrity-safety-act-20210325.html>

activity occurred in the Commonwealth.^{40 41}

The Commonwealth has a poor national reputation. According to Stuart Janney III, President of the Jockey Club, “Pennsylvania for quite some time has done a very bad job in regulating our industry,” ... “Pennsylvania is going to have to fit into a [national] regime that is a lot tougher in terms of medication and safety.”⁴²

In December 2020, Congress passed the Horseracing Integrity and Safety Act, which will remove drug testing and enforcement responsibilities from state racing agencies and create a national system of standards and practices administered by the US Anti-Doping Agency. The new system will take effect on July 1, 2022.

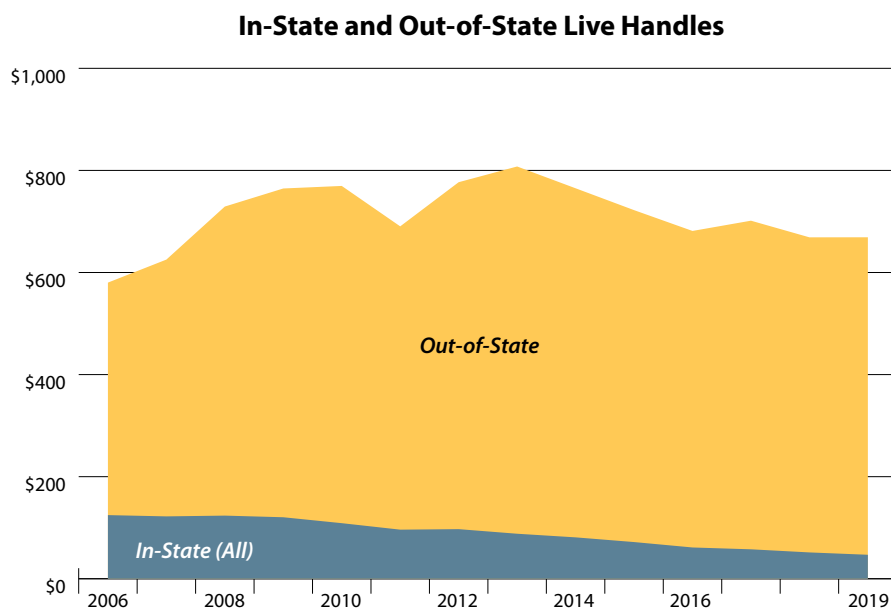
Promotional Costs: \$2.4 Million

Act 7 was instigated to address a structural deficit in the Racing Fund, which is supported by the pari-mutuel tax and fees from licenses and fines. In addition, by 2016, the gaming environment had become much more competitive and slots revenue had begun to decline. There were concerns that the racing industry, flush with ten years of state investment, was slow to adapt to the new environment and the rapidly changing consumer market. The Act set aside 1% of the Race Horse Development Fund to pay for racetrack promotions.⁴³ Unlike other expenditures, the legislation required annual reports called “the 1211 reports.”⁴⁴

Section III. Who Benefits

The Main Audience for Horse Racing Is Out-of-State Gamblers

In 2019, all in-state wagers accounted for \$47 million, less than 10% of the total live handle. More than 90% of all wagers on Pennsylvania horse races, \$622 million, were placed by patrons viewing a broadcast of the live race at an out-of-state location. The share of Pennsylvanians wagering on Pennsylvania races fell from 21% in 2006 to just 7% in 2019. The public’s investment in racing did increase out-of-state handle from 2006 to 2011, but the success was short lived. Since 2013, despite a strengthening economy, out-of-state handle



Source: Pennsylvania Gaming Control Board Pari-mutuel Benchmark Statistical Summary, 2011-2019

40 United States District Court Southern District of New York. 2020. United States of America vs. Jorge Navarro et. al. March 9, 2020. <https://www.justice.gov/usao-sdny/press-release/file/1256656/download>

41 Pennsylvania Horse Racing Association. 2020. “PA Equine Coalition Applauds State Racing Commission for Suspending Occupational Licenses of Individuals Under Indictment,” March 13, 2020. <https://patha.org/pa-equine-coalition-applauds-state-horse-racing-commission-for-suspending-occupational-licenses-of-individuals-under-indictment/>

42 <https://www.inquirer.com/business/a/pennsylvania-horseracing-deaths-integrity-safety-act-20210325.html>

43 Act 7 of 2016, op. cit., Section 2813-D.

44 Pennsylvania Department of Agriculture. Webpage: 1211 Reports. Accessed at: (<https://www.agriculture.pa.gov/Animals/RacingCommission/commission/Pages/1211-Reports.aspx>).

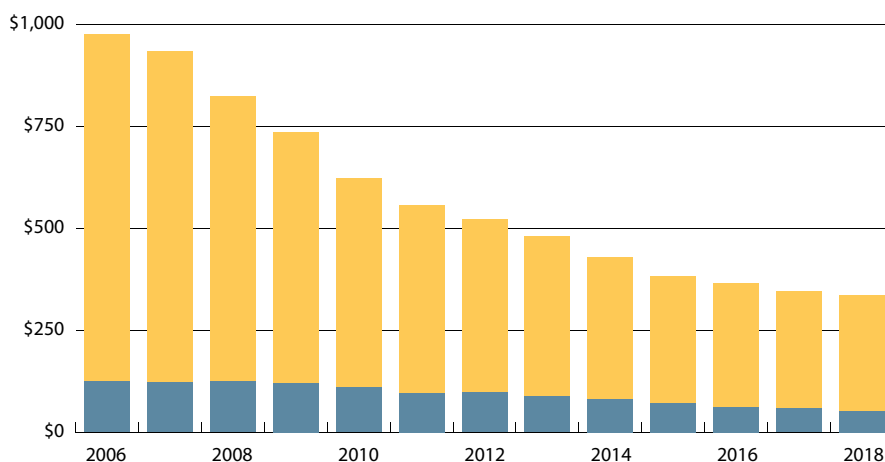
has steadily declined.⁴⁵

Both horsemen and casino owners benefit from out-of-state bettors. The Independent Fiscal Office estimated that in 2016 track revenue from in-state handle was \$10.7 million and the share from out-of-state wagers, which return a host fee of 4%, was \$24.8 million or 70% of the total income. The IFO estimates two-thirds of the total is retained by the track and one-third goes to the horsemen.⁴⁶

Pennsylvanians' Betting on the Decline

It is also true that most Pennsylvanians are betting on races at other tracks. In 2018, Pennsylvanians bet \$51.3 million on races run at Pennsylvania tracks and \$284 million on races run in New York, New Jersey, Florida, California or other states. Total wagering by Pennsylvanians has declined precipitously from \$976 million in 2006 to \$300 million, a drop of 69%.⁴⁷

Resident Wagers In-State vs. Out-of-State



Source: Pennsylvania Gaming Control Board Pari-mutuel Benchmark Statistical Summary, 2011-2018

The Race Horse Owners Get the Most Lucrative Benefits

On its website, the Pennsylvania Horse Breeders Association makes its pitch to horse owners this way: “Why breed in Pennsylvania? The Numbers Make it Clear - Pennsylvania Pays!” Both figuratively and literally, Pennsylvania taxpayers underwrite the sport of kings.⁴⁸

The main beneficiaries of Pennsylvania’s racing subsidy are the owners. They are eligible to participate in most programs and receive the greatest financial benefits. The Mohegan Sun racetrack even lets horse owners eat for free in its restaurant.⁴⁹

Table 2 shows distribution of benefits among the participant groups.

Table 2. Benefit Distribution

	Owners	Breeders	Jockeys-Drivers	Trainers	Other Horsemen	Family Members
Purses						
Breeding Fund (TB)						
Standardbred Breeders						
Sire Stakes						
Health/Pension						

45 Pennsylvania Gaming Control Board. “Racetrack Casino Benchmark Reports. 2011, 2015, 2018. Accessed at: <https://gamingcontrolboard.pa.gov/?p=51>.

46 Joint State Government Commission, op. cit., p. 66.

47 Pennsylvania Gaming Control Board. 2019. “2018 Pari-mutuel Statistical Supplement,” June 8, 2019. p. 89. Accessed at: https://gamingcontrolboard.pa.gov/files/reports/2018_Pari-Mutuel_Statistical_Summary.pdf.

48 Pennsylvania Horse Breeders Association, 2020. Webpage: “Why Breed in PA.” Accessed at: <https://pabred.com/about-phba/why-breed-in-pa/>.

49 Pennsylvania Harness Horsemen’s Association. <http://pahha.com/>

The audience for the advertising pitch is out-of-state owners. The Independent Fiscal Office, in its 2017 analysis of the economic return of the Race Horse Development Fund, estimated that 50% of purses were won by non-residents, equal to \$80 million in 2019.⁵⁰ Approximately \$3.3 million in Standardbred Development Fund awards went to Pennsylvania owners and \$1.8 million to out-of-state owners in 2018.⁵¹

The rules for the PA-bred designation appear to be fairly loose. Awesome Wonder, a bay horse who won three Pennsylvania Sire Stakes races—races for Pennsylvania-bred horses—is a registered Delaware Standardbred Breeders' Fund Stallion for 2020. The owner took advantage of Pennsylvania's lucrative purses for two years, then went back to Delaware with higher winnings that drove up stud fees. This creates value for the owner but no permanent economic benefit to Pennsylvania.⁵²

St. Patrick's Day, a young horse who has had success in Stakes races in Pennsylvania and New York, is now happily residing on Boston Farm in Fenton, Delaware.⁵³

The United States Trotting Association explains how a dual designation works. Kentucky changed its stakes awards to match Pennsylvania's so that : "...if a mare is bred to a stallion standing in Pennsylvania, as long as that mare is boarded in Kentucky for 180 consecutive days during the year of conception, her foal will be eligible to both the Kentucky Sire Stakes program and the Pennsylvania Sire Stakes program."⁵⁴

The Horsemen's Organization are Funded with Tax Dollars

Each of the horsemen's associations receive a share of the purse money, which is included in the racing agreement with the track. At Parx, the Pennsylvania Thoroughbred Horsemen's Association receives 3% of the purse, at Penn National it is 3.5%, and at Presque Isle it has fluctuated between 3% and 5%. Pocono Downs gets a flat \$1.2 million. The other tracks vary based on agreements with owners.⁵⁵

The Programs Benefit a Small Number of Owners and Breeders

Despite the large size of the subsidy—\$237.7 million in 2019—a small number of individuals reap considerable personal benefit from the PRHDF.

The Standardbred programs provide support for breeders and owners of Pennsylvania standardbred stallions. The Association's website shows its membership—47 farms across all of Pennsylvania.⁵⁶ According to the Thoroughbred Breeders Association 2018 Pennsylvania Stallion Directory, there are only 26 stallion farms in the Commonwealth.⁵⁷

50 Joint State Government Commission. op. cit. p 59.

51 Communication with PA Department of Agriculture.

52 Delaware Department of Agriculture. Webpage: <https://agriculture.delaware.gov/wp-content/uploads/sites/108/2019/12/AWESOME-WONDER.pdf>

53 <https://agriculture.delaware.gov/wp-content/uploads/sites/108/2019/12/ST-PATRICKS-DAY.pdf>

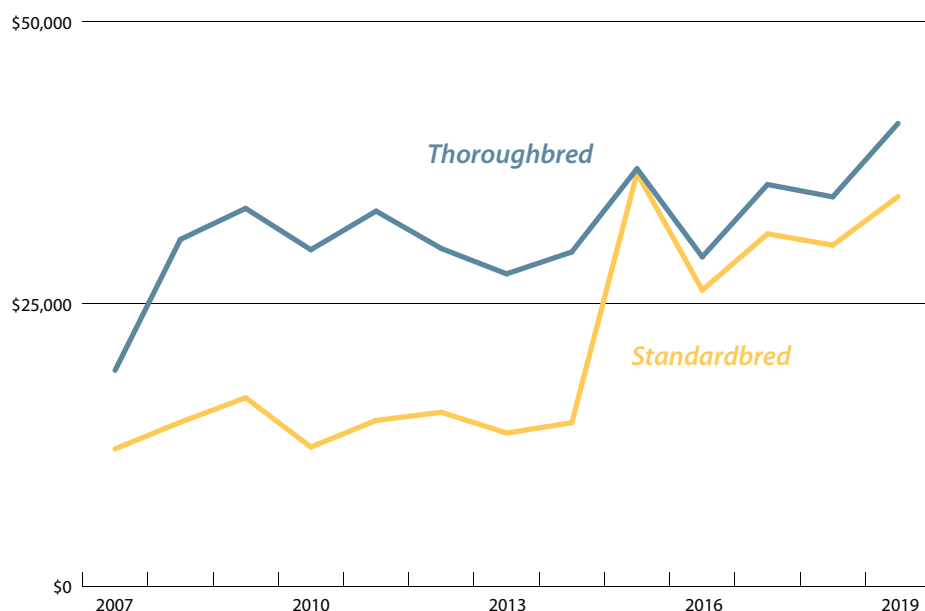
54 Kimberly French. 2019. "Industry Trends: Bonanza in the Bluegrass," November 25, 2019. Harness Racing Fanzone. Accessed at: (<http://harnessracingfanzone.com/industry-trends-bonanza-in-the-bluegrass/>).

55 Bureau of Audits. Office of the Budget, op. cit. Accessed at: <https://www.budget.pa.gov/PublicationsAndReports/AuditReports/Pages/default.aspx>.

56 Standardbred Breeders Association of Pennsylvania. Webpage: Map of Breeding Farms. Accessed at: <https://www.standardbredbreederspa.org/>.

57 Pennsylvania Horse Breeders Association. 2018. "2018 Pennsylvania Stallion and Boarding Directory," Webpage. Accessed at: "<https://pabred.com/wp-content/uploads/2017/12/2018-Stallion-Directory.pdf>."

Average Award Per Registered Breeder



Source: Pennsylvania Gaming Control Board Pari-mutuel Benchmark Reports

The Pennsylvania stallion registration report for standardbred horses lists only 55 horses in 2020.⁵⁸

In 2019, the number of thoroughbred and standardbred breeders dropped considerably. Since the awards are fixed as a percentage of the total fund, the breeder average increased considerably--from \$34,448 to \$40,978 for thoroughbred breeders and from \$30,205 to \$34,498 for standardbred breeders.⁵⁹

The Standardbred Development Fund is administered by the State

Horse Racing Commission. The names of winners and earnings are not readily available to the public.

The Pennsylvania Breeders Association provides detailed information on payouts to thoroughbred breeders and stallion owners, including names and award amounts. In 2019, \$1.5 million was paid out to 54 registered thoroughbred stallion owners, an average of \$28,783 per horse. But the funds aren't distributed evenly—the top five stallion breeders took home 58% of the total.⁶⁰

The Breeders Fund also paid out \$9.8 million to 395 breeders or individuals. Of the total, 284 (72%) earned \$20,000 or less and the top 20 earned \$3.4 million—one-third of the total.

Out-of-state hobbyists reap substantial benefits from Pennsylvania's Thoroughbred Breeders Fund. From 2015 to 2019, Larry Karp, an investment advisor and money manager from Plano, Texas, received \$1.3 million through his company Barlar, LLC. Another Texan, entrepreneur Henry Northcraft, received more than \$500,000. Delaware-based attorney Stuart Grant's company, the Elkstone Group, LLC, received \$431,950. A medical doctor from New Jersey, Yaroslav Kolybabiuk, received \$458,394 and Kentucky millionaire Kenneth Ramsey took home \$383,805.^{61 62}

Pennsylvania's breeding and stakes programs, worth \$30.5 million benefited only 614 individuals. That's slightly more than the average number of students at one of the state's 1,676 elementary schools.

58 Pennsylvania Harness Commission. 2020. "PA Stallion Registration Report for Breeding Season 2020. Accessed at: <https://www.agriculture.pa.gov/Animals/RacingCommission/PA%20State%20Harness%20Racing/Documents/2020%20Stallion%20Registration%20Report.pdf>.

59 PGCB 2018 Racetrack Casino Report. op. cit., p. 8-9.

60 Pennsylvania Horse Breeders Association. 2018. "Pennsylvania Breeding Fund Program Awards, January 1 through December 31, 2018 Final. February 21, 2019. Accessed at: <https://pabred.com/2018-awards/>.

61 Author's calculations.

62 Henry Nothhaft: <https://www.linkedin.com/in/henrynothhaft/>; Larry Karp: https://pabred.com/wp-content/uploads/2016/02/PHBANews_0316.pdf; Stuart Grant: <https://www.americasbestracing.net/owners/the-elkstone-group-llc>; George Strawbridge, Jr. <https://www.bloodhorse.com/horse-racing/articles/238116/a-breakthrough-eclipse-for-top-breeder-strawbridge>

Horses Are a Luxury Good

Race horse owners are not your average lot. They are either horse breeders looking to collect higher stud fees or investors with discretionary income and a penchant for risk.

Horse racing has been characterized as “a fun and status-enhancing sport for people of means, but not a very good investment” and lumped in with flight-of-fancy, money-burning expenditures like superyachts and castles.”^{63 64}

Many thoroughbred horses are purchased by syndicates or partnerships. The cost of an inexpensive horse is \$10,000 for a sole owner, while an expensive horse costs \$100,000 or more.⁶⁵ Shares of a high stakes horse will set you back \$15,000 to \$40,000.⁶⁶ The average maintenance cost is \$25,000 although it can be double that for more expensive horses.⁶⁷

Few race horses recover the initial investment. A 2005 survey in Thoroughbred Times magazine found that about one-fourth of race horses earned less than \$1,000, 17% drew \$25,000, and only 2% won \$100,000 or more. A more recent assessment indicates that closer to 4% earn \$100,000 or more, most likely a result of state subsidies for racing purses.⁶⁸

The Thoroughbred Owners and Breeders Association tells potential horse owners that what they can expect to gain from horse ownership is “a wonderful network of new friends, endless social activities, a sense of significant achievement and hours of unsurpassed entertainment.”

“This is a game where money invested should be thought of as disposable income,” according to race horse expert and consultant Tony Cobitz.⁶⁹

In 2006, when asked about the financial benefits of horse racing, Terry Finley, the founder of West Point investments based in Mount Laurel, NJ, said “the odds are not good.” Finley’s company sells shares in race horses to investors interested in scoring big. “This is similar to investing in an early-stage tech company. Often it doesn’t work out, but looking for the next Google keeps you going.” In 2015, Mr. Finley told the New York Times: “People who have sold a company or had a big score in the stock market will come into the business because they will think back to the electricity that was exhibited in the crowd on Belmont Stakes day, and they will say let me investigate that,” he said.⁷⁰

There are also tax benefits to owning a race horse. In Pennsylvania, race horses are exempt from sales tax. An individual who buys a car must pay sales tax on its value, but a race horse owner investing as a hobby, does not. This sales tax exemption is not available to show horses or recreation horses. Pennsylvania tax law defines racing as

63 Kerry Hanson. 2015. “Investing in Race Horses Despite the Long Odds,” New York Times. November 12, 2015. Accessed at: <https://www.nytimes.com/2015/11/12/your-money/investing-in-Race-Horses-despite-the-long-odds.html>.

64 Hayley Warren and Devon Pendleton. 2019. “The Potential Payouts of Owning a Kentucky Derby Race Horse,” May 2, 2019. [Bloomberg.com](https://www.bloomberg.com/graphics/2019-kentucky-derby-horses-owners/). Accessed at: <https://www.bloomberg.com/graphics/2019-kentucky-derby-horses-owners/>.

65 (<https://toba.org/owner-education/>).

66 Katy Marquardt. 2006. “The Ups and Downs of Owning a Race Horse,” April 30, 2006. Kiplinger’s. Accessed at: <https://www.kiplinger.com/article/investing/T050-C000-S002-the-ups-and-downs-of-owning-a-Race-Horse.html>.

67 Training fees run \$40-\$140 per day, or \$14,000-\$50,000 per year. Veterinary fees are \$100 per month and up to 50% of trainers’ fees and shoes alone cost \$80-\$120 per month.

68 See Warren and Pendleton, Bloomberg May 2, 2019. op. cit.

69 Hillary Hoffower. 2018. “Forget Owning a Sports Team, Rich People are Snapping Up Race Horses,” October 14, 2018. Business Insider: Accessed at: <https://www.businessinsider.com/rich-people-buy-yearling-Race-Horses-investment-keeneland-2018-10>.

70 See Hanson. New York Times. November 12, 2015.

farming.⁷¹ In Ohio, New Jersey and Virginia, race horses have no sales tax exemption, and in New York the value is exempt up to \$100,000.⁷²

The IRS characterizes horse ownership as a business or a hobby. Those operating as businesses can write off expenses and depreciate the investment if they spend 500 hours annually on the business, about one-quarter time. For wealthy owners with significant operating income, investing in a partnership or otherwise operating with the intention of earning a profit could generate losses that offset other income. Many race horses are owned by limited liability corporations (LLCs) where the managing partner runs the business. In this case the passive investors can claim losses when the partnership ends.⁷³

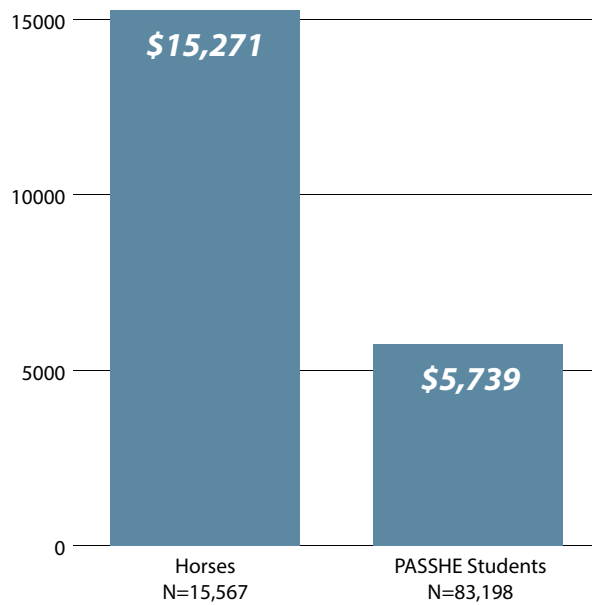
Horses Get More Subsidies than College Students

In 2019, a total of 15,567 horses competed in 78,615 races during the year, an average of 5 starts per horse. The state’s investment in the industry, \$237.7 million, was approximately \$15,271 per horse.⁷⁴

By way of contrast, the 14 Pennsylvania state universities, with a total enrollment of 83,198 students, received \$477.5 million, or \$5,739 per student.⁷⁵ Looked at another way, the average subsidy per track is \$39.6 million while the average per campus subsidy is \$34.1 million.

Policymakers have to ask themselves what the better investment is in Pennsylvania’s future: horses that race for four years or students whose education lasts a lifetime.

State Subsidy 2019



Source: Pennsylvania Gaming Control Board Pari-mutuel Benchmark Reports

Section IV. Pennsylvania’s Tax Subsidy Program Is One of the Largest in the Nation

Thirty-eight states allow some form of horseracing. Seven host only fair races or steeplechase and 31 allow commercial thoroughbred and/or standardbred racing at 105 tracks.⁷⁶ Slightly less than half of the states, 14 of 31, have racinos or racino-funded racing. States with subsidies have an average of 4.3 tracks per state compared to 2.6 per state with no racinos.⁷⁷

71 The propagation and raising of horses to be used exclusively for commercial racing activities is considered farming and exempt from sales taxation. PA Department of Revenue. 2019. “Tax Information for Farmers,” September 2019. Accessed at: <https://www.revenue.pa.gov/FormsandPublications/FormsforBusinesses/SUT/Documents/rev-1729.pdf>.

72 Dean Dornan, Dinsmore. 2017. Equine Sales and Use Tax Review. March 2017. Accessed at: <https://www.dinsmore.com/content/uploads/2017/06/201720dinsmore20equine20sales20and20tax20guide-2.pdf>.

73 See Kiplinger’s, April 30, 2006.

74 PGCB 2018 Racetrack Casino Benchmark Report, p. 9.

75 Commonwealth of Pennsylvania, Governor’s Executive Budget, 2019-20. P E.14-15; <https://viz.passhe.edu/t/Public/views/Enrollment-PublicFinal/System?isGuestRedirectFromVizportal=y&embed=y>.

76 Fair races are excluded from this count.

77 Author’s calculations. Data accessed from <https://horseracingwrongs.org/active-u-s-racetracks/> and from <https://www.officialusa.com/stateguides/horseracingtracks/>.

Horse racing has been in decline for some time. In 2019, New Zealand has closed 7 of 48 tracks, with a potential of 20 additional closures in the next few years.⁷⁸ In the U.S., 36 racetracks have closed since 2000 while only two have opened—both “racinos”—where slots and table games provide the primary revenue source for casino owners.⁷⁹

In an attempt to stem this decline, the racing industry has pressed for public support, which comes through purse subsidies or through owner/breeder awards. Twenty-two states have incentive programs for thoroughbred breeding though few are as generous as Pennsylvania.⁸⁰ All 22 states offer races that are restricted to state-bred or -sired horses, although residency requirements vary widely.



Horses and jockeys coming out of the game during the first race of the day at Parx Casino and Racing in Bensalem, PA on September 14, 2013. (Colin Kerrigan / Philly.com)

The size of a state’s incentive programs appears related to the availability of slots funding. California has a \$26 million breeding program, funded through live handle.⁸¹ Kentucky’s breeders program pays out an average of \$12 million per year, funded by the sales tax paid on horse sales.⁸² Although Florida also has racinos, breeder’s incentives are paid through live handle.⁸³

Several states in the northeast subsidize horseracing with casino tax revenue, although Pennsylvania is among the most generous.

Delaware legalized slot machines in 1994 and currently allocates revenue from slots, table games, and pari-mutuel wagers to the state’s three racetracks. Thoroughbred racing is subsidized through breeders and stakes awards that totaled \$782,630 in 2017. Despite the subsidy, total wagering fell from \$275 million in 2007 to \$117 million in 2017.⁸⁴ In 2018 the state’s two harness tracks received \$18.2 million in purses and \$4.7 million in breeder’s funds and stakes races. On-track live handle at the two racetracks was \$1.9 million and out-of-state handle was \$48.9 million.⁸⁵

Maryland has six tracks including a racino, and taxes and revenue from both slots and table games support racing. In 2018-19, casinos earned \$1.7 billion and paid a \$717.5 million tax. The greatest share, \$542.7 million, went to education; 5.3% or \$92.8 million went to local impacts; and 4.4% or \$76.6 million went to support horse racing. Maryland’s investment has also produced results similar to Pennsylvania’s: purses went up, out-of-state handle

78 Paulick Report Staff. 2019. New Zealand Shuts Down Seven of its 48 Tracks Due to Financial Problems. April 12, 2019. Accessed at: <https://www.paulickreport.com/tag/track-closures/>.

79 Horseracing Wrongs. Shuttered U.S. Racetracks (Since 2000). Webpage accessed at: <https://horseracingwrongs.org/shuttered-u-s-racetracks-since-2000/>.

80 Thoroughbred OwnerView.2020. Webpage. “State Incentive Programs” Accessed at <https://www.ownerview.com/state-incentive-program>.

81 California Thoroughbred Breeders Association. Webpage. Accessed at: (<https://ctba.com/about-the-ctba/>).

82 Thoroughbred OwnerView. 2020. Kentucky. <https://www.ownerview.com/state-incentive-programs/kentucky>

83 Florida Thoroughbred Owners Association. Webpage. Accessed at: <https://www.ftboa.com/Racing/Florida-bred-Incentives>.

84 Delaware Thoroughbred Racing Commission. 2017. “The Year in Review,” February 2018. Accessed at: https://agriculture.delaware.gov/wp-content/uploads/sites/108/2018/02/2017-dtrc-annual-report_d.pdf.

85 Delaware Harness Racing Commission. 2018.” Funding Statistics Table. 2018 Annual Report,” No date. Accessed at: <https://agriculture.delaware.gov/wp-content/uploads/sites/108/2019/07/2018-Annual-Report-Purses-Table.pdf>.

went up, and in-state handle went down.⁸⁶

New Jersey provided a track subsidy from casino revenue until 2010, when the Great Recession devastated the casino industry and five closed. In 2019 state lawmakers enacted a new subsidy for its three racetracks, in part driven by claims of interstate competition.⁸⁷ One year later, state lawmakers cut the subsidy by 25%.

As is the case in other states, the racing industry holds considerable sway. In June 2018, tracks were written into the legislation authorizing sports betting in New Jersey. Later that year the owner of the Monmouth Park track was pressing for purse subsidies, an effort stalled by the harness industry looking for a piece of the pie. In November 2018, a bill providing subsidy to all parties was introduced and by February it was signed into law. The state legislature agreed to a five-year \$100 million subsidy, \$10 million is allocated to purses at Monmouth and \$10 million supports purses, stakes races, and breeding funds at the two other tracks.⁸⁸

The law has strong accountability provisions. It requires detailed annual reporting and conditions appropriations after the first year on success meeting the goals set forth in the legislation.⁸⁹

New York funds 11 racetracks with an 8% tax on video lottery terminals (VLT) — slots and poker machines. The racing industry gets 10% of the tax revenue, 8.75% is for horsemen and 1.25% goes to breeders with the rest split between the tracks and the state. In 2015, that tax raised \$1 billion for New York public schools.

The state has four thoroughbred tracks, three run by the New York Racing Association (NYRA), and 7 harness tracks. The NYRA tracks brought in \$2.5 billion in 2018, and are required by the state to achieve financial self-sufficiency, but have not yet done so.⁹⁰

The harness tracks are very dependent on state subsidy. Purses more than tripled from 2003 to 2015, from \$35 million to \$118 million. At the same time live handle fell by 21%. As is the case across the country, most wagering at harness tracks takes place out of state. Said one observer about the state of the industry, “I don’t want to say it’s become a television studio, but it is more important to produce a good-looking television signal than to have tasty hot dogs in the stands.”⁹¹

Although New York has twice as many tracks, Pennsylvania’s tax subsidies are almost as large. In 2015, Pennsylvania paid out \$193 million in purses compared to \$301 million in New York. In 2018, our thoroughbred breeding programs paid out \$16.8 million while New York paid \$15.3 million. In New York, health insurance costs are paid from purse money rather than tax dollars as is the case in Pennsylvania.⁹²

86 Maryland Racing Commission. 2018. “Ninety-ninth Annual Report,” September 15, 2019. Accessed at: <https://www.dllr.state.md.us/racing/mrcannrep2018.pdf>.

87 John Reitmeyer. 2019. “As Atlantic City Casinos Rise Again, Trying to Ensure Community Also Benefits,” New Jersey Spotlight. June 6, 2019. Accessed at: <https://www.njspotlight.com/2019/06/19-06-06-as-atlantic-city-casinos-rise-again-trying-to-ensure-community-also-benefits/>.

88 Brent Johnson. 2019. “New Jersey a Step Away from Giving Millions to its Hobbling Horse-racing Industry. Advance Media for New Jersey.com. February 1, 2019. Accessed at: <https://www.nj.com/politics/2019/02/nj-a-step-away-from-giving-100m-to-its-hobbling-horse-racing-industry.html/>.

89 Legiscan.com webpage. Accessed at: https://legiscan.com/NJ/text/S2992/id/1955003/New_Jersey-2018-S2992-Chaptered.html.

90 Letter from Michael Solomon, Office of the State Comptroller, State of New York to the New York Racing Association. January 24, 2018. Accessed at: <https://osc.state.ny.us/audits/allaudits/093018/sga-2018-17f27.pdf>.

91 John Spector. 2017. “How VLT’s Saved New York Horse Racing,” Democrat and Chronicle. February 16, 2017. Accessed at: <https://www.democratandchronicle.com/story/news/politics/albany/2017/02/16/how-vlts-saved-ny-horse-racing/98007232/>.

92 Ibid.

Section V. Has the Race Horse Development Fund Been a Success?

The intent of Act 71 was to “positively assist the Commonwealth’s horse racing industry, support programs intended to foster and promote horse breeding and improve the living and working conditions of personnel who work and reside in and around the stable and backside areas of racetracks.” In addition, the legislature expected gaming would increase “year-round recreation and tourism locations in the Commonwealth.”⁹³

The results could be measured by a change in the number of farms, an increase in the number of foals born each year, and greater attendance at racing events. All of this presumes there is a broader societal benefit from more breeding farms, more race horses, and more gambling. The next section examines the impact of Act 71 using these measures.

Racetrack Attendance Is Small and Falling

If attendance at racetracks is any indicator, despite the large investment in horses, breeders and tracks, the public has little interest in the sport.

Table 3 compares racetrack attendance with attendance at Pennsylvania’s eight minor league baseball stadiums. In 2017, stadiums were open for 470 days with a total attendance of almost 2.4 million Pennsylvanians, an average of just over 5,000 people per day. In contrast, over 926 days, attendance at Pennsylvania’s six racetracks was 681,958 people for an average of 736 people per day. Racetrack attendance continued to decline in 2018, falling to 562,181, or 643 per day.⁹⁴ Average daily attendance for the Williamsport Crosscutters, part of the New York-Penn League, is greater than all of Pennsylvania’s horse racing venues.⁹⁵

Table 3. Attendance: Minor League Baseball vs. Racetracks

Venue	Attendance	Dates	Average
Lehigh Iron Pigs	555,146	65	8,541
Scranton Railriders	439,412	68	6,462
Reading Fightin Phils	411,696	68	6,054
Altoona Curve	294,486	67	4,395
Harrisburg Senators	262,872	66	3,983
Erie Seawolves	214,394	64	3,350
State College Spikes	123,401	38	3,247
Williamsport Crosscutters	61,082	34	1,797
Total Baseball Attendance	2,362,489	470	5,027
Total Racetrack Attendance	681,956	926	736

Sources: <https://www.baseballpilgrimages.com/attendance/minor-leagues-2017.html>, Pari-Mutuel Benchmark Statistical Supplements, 2015-2019

The Independent Fiscal Office looked at resident and non-resident spending at Pennsylvania racetracks, including food, concessions, and lodging. The analysis assumed that Pennsylvania residents’ spending had no net impact on the economy as those funds would have been spent on other recreational activities. Non-residents spent an estimated \$1.9 million, or 20% of the \$9.2 million in total consumption of food and concessions and an

93 Act 71 of 2004. Title 4. Chapter Section 1102. Accessed at:

<https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=04&div=0&chpt=11>.

94 Graham Knight. 2017. “2017 Minor League Baseball Attendance. BaseballPilgrimages com. No Date. Accessed at: <https://www.baseballpilgrimages.com/attendance/minor-leagues-2017.html>.

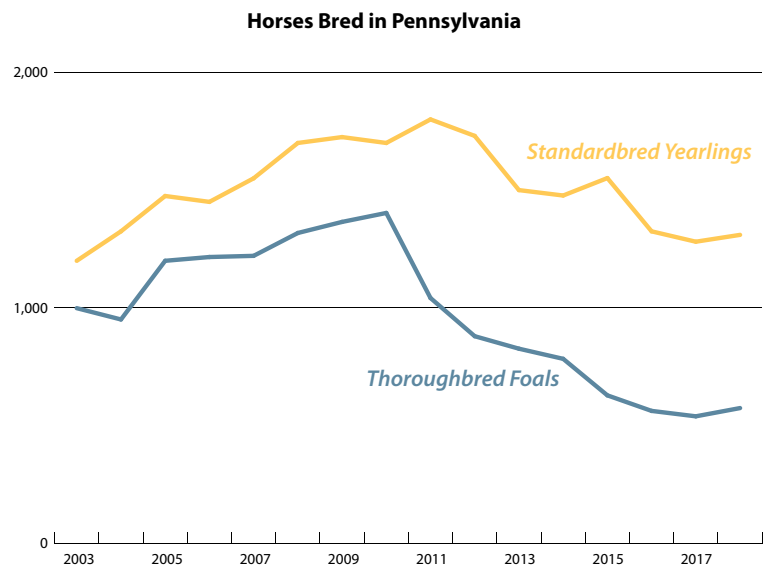
95 Williamsport Crosscutters. Accessed at: <https://www.milb.com/williamsport>.

estimated \$1.8 million on lodging.⁹⁶

The Number of Foals Is Declining

A second goal of Act 71 was to support the industry by increasing the number of horses bred in the Commonwealth. The argument is that supporting horse racing is supporting agriculture and protecting farmland. The measure of success of a breeding program is the number of horses sired or raised in a state.

By this measure the investment is not succeeding. The number of thoroughbred foals peaked in 2010, but by 2018 the number had declined from 1,405 to 575. Standardbred yearlings peaked in 2011 at 1,800 and have declined to 1,310. Pennsylvania's thoroughbred breeders produced 2.7% of the mares and 3.0% of the stallions bred in the U.S. The share has fallen since 2010 despite the Commonwealth's investment in breeding programs.⁹⁷



Source: Pennsylvania Gaming Control Board Pari-mutuel Benchmark Reports, 2011-2018

The Economic Benefit to the State Is Limited

Pennsylvania's spending on the racing industry is predicated on its importance to the state's economy. To generate this level of investment, more than \$200 million, the impact would have to be high.

According to a 2016 analysis of Pennsylvania's economic development spending, the PRDF is the single largest economic development incentive program in the state, representing 30% of all economic development spending in 2014-15.⁹⁸

The industry asserts that this spending is justified. An economic development study from 2016 claims horseracing created 16,000 jobs that year and generated \$1.6 billion in economic value to the state. Several other studies suggest the impact is much smaller.⁹⁹

Act 7 of 2016 directed the Joint State Government Commission to study the horseracing industry, including an assessment of the economic impact of the Race Horse Development Fund. The Independent Fiscal Office prepared the study for the Commission with several significant findings.

- 50% of purses awarded and at least 10-15% of other PRHDF dollars were received by non-residents. One-third of the \$232.8 million fund, \$80.1 million, went to non-Pennsylvania residents, and \$43 million, almost 20%, is spent out of state.
- The total direct spending related to PRHDF expenditures from all sources is \$224.6 million, with an indirect impact of \$397 million, using multipliers similar to those used in other industry studies. The IFO believes those multipliers double-count certain impacts.

⁹⁶ Joint State Government Commission, op. cit., p. 70.

⁹⁷ The Jockey Club. 2020 Pennsylvania Factbook. No Date. Accessed at: <http://jockeyclub.com/factbook/StateFactBook/Pennsylvania.pdf>

⁹⁸ Independent Fiscal Office. 2016. "Economic Development Incentives," Research Brief – 2016-2. March 2016. Accessed at: <http://www.ifo.state.pa.us/download.cfm?file=Resources/Documents/RB-2016-02.pdf>

⁹⁹ PAHomepage.com. PA Equine Coalition Not Happy About Possibly Losing \$200 million. February 6, 2020. Webpage accessed at: <https://www.pahomepage.com/top-stories/pennsylvania-equine-coalition-not-happy-about-possibly-losing-200-million/>.

- Other potential uses have stronger multiplier effects and greater economic benefit than those related to racing. The IFO identified several alternative uses that would generate greater economic return for the Commonwealth, including elementary and secondary education and infrastructure spending. See Appendix 1.

Employment in the Industry Is Small

The Pennsylvania State Horse Racing Commission contracted with Delaware Valley College to conduct a study of the industry’s impact on Pennsylvania’s economy.¹⁰⁰ Excerpts from the report can be found on the PA Harness Horsemen’s Association website (www.phha.org). The study found direct employment of 7,358 FTEs across the Commonwealth’s six racetracks, imputed indirect employment of 8,023, and induced employment of 602 people for a total of 15,983 jobs directly or indirectly associated with the racing industry.

The report breaks down full-time and part-time employment for the categories of employees: track workers, owner/breeders, members of trade associations affiliated with the industry, and employees at agricultural fairs. The vast majority of track workers are part-time employees, with only 1,704 full-time jobs listed at the six racetracks. Fewer than 25% of track workers are employed full-time, while three-quarters of horse breeders and owners hold full-time positions.

Table 4. Employment

Employment	Tracks	Owners/Breeders	Trade Assn	Fairs	Total
Full Time	1704	1534	282	51	3571
Part Time	5270	477	14	64	5825
Total	6974	2011	296	115	9396

The study claims further economic benefits but does not appear to be publicly available. The survey instrument used in the analysis was open to residents and non-residents.¹⁰¹

By way of comparison, a 2015 economic impact study prepared for the Pennsylvania Restaurant and Lodging Association found that the tourism industry supported 310,000 direct jobs and a total of 500,000 jobs.¹⁰²

Other Equine-Related Industries Are More Significant

In October 2017, Delaware Valley College completed a study of the impact of the equine industry in 10 counties in the eastern part of the state that account for 36% of the equine population and 32% of the equine farms in the state. (Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Montgomery, Philadelphia, Schuylkill and York). Like the later racing study, the college used an online survey of equine owners, farms, and breeders as its data source.¹⁰³

The survey found that 70,000 acres, or about 5% of the farm acreage in the ten-county region were devoted to equine activity.

¹⁰⁰ Communication with PA Department of Agriculture.

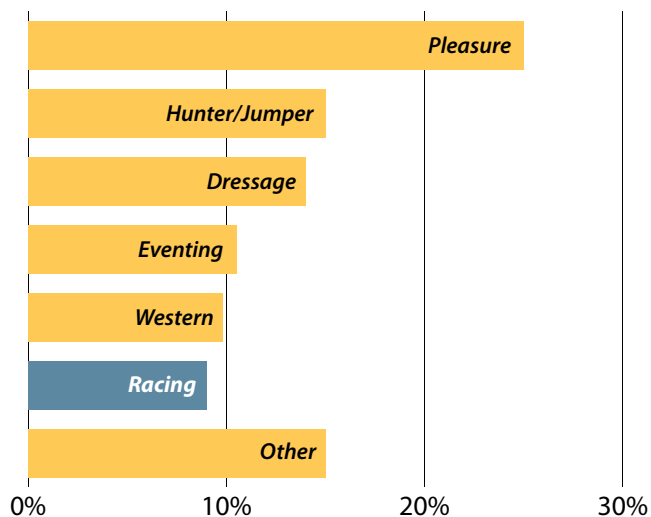
¹⁰¹ The Meadows Standardbred Owners Association. 2018. “Action Needed Economic Survey,” August 22, 2018. Webpost. Accessed at: <https://www.themsoa.com/action-needed-economic-impact-survey/>.

¹⁰² Pennsylvania Department of Community and Economic Development. 2017. “Governor Wolf’s \$10 Million Tourism Budget Proposal Would Have Immediate Positive Impact on PA Economy,” Press release. June 14, 2017. Accessed at: <https://dced.pa.gov/newsroom/governor-wolfs-10-million-tourism-budget-proposal-immediate-positive-impact-pa-economy/>.

¹⁰³ John Urbanchuk, Sarah M. Young, Ms. Cory H. Kieschnick, Ms. Christine Seel. 2017. “Impact of Equine Industry on the Economy of Southeastern Pennsylvania,” Delaware Valley University. October 10, 2017. Accessed at: https://www.delval.edu/pdf/SEPA_Equine_Econ_Impact.pdf.

Most Popular Equine Activities

(1,234 survey responses)



Source: "Impact of Equine Industry on the Economy of Southeastern Pennsylvania," Delaware Valley University, October 10, 2017.

Racing was the least popular equine activity. Pleasure riding, hunting and jumping, dressage, and other activities—activities with no state subsidy—make up the vast majority of preferred activities for the horse owners in the region. Fewer than 10% of respondents were involved in racing activities. Similarly, of all respondents, fewer than 10% were involved in breeding activities.

The American Horse Council completed an economic impact analysis of Pennsylvania's equine industry in 2017 that confirms horse racing's small share of the overall equine economy.¹⁰⁴ The report values horse racing's direct impact at \$314 million and 3,778 direct jobs, this on a state investment of \$232.8 million in 2017. Recreational activities generated \$329 million to the economy and 8,430 direct jobs, while the competition sector generated an additional \$279 million and 7,640 direct jobs. Racing has the least economic benefit of the three equine sectors.

Horses Are a Small Share of the Overall Agricultural Industry

The number of horses and horse farms in the state has been declining for some time. A 2003 Penn State equine survey found 215,693 horses of all types in Pennsylvania, with 26,365, or 12.2%, of those identified as solely involved in the race horse industry.¹⁰⁵

The U.S. Department of Agriculture conducts a regular census of agricultural activity in each state. In the 2012 Pennsylvania census the total number of horses in Pennsylvania had fallen to 119,900, a decline of more than 40% from 2003.¹⁰⁶ The most recent census from 2017 shows the number had fallen further to 88,343 horses of all types on 13,809 farms.¹⁰⁷ In contrast, there were 998,947 active milk cows in 2017.¹⁰⁸ As to the value of animal sales, beef cattle represented \$625.5 million, milk cows \$2 billion, hogs and pigs sales were \$572 million and sales of all horses, burros and donkeys were valued at \$44.1 million.¹⁰⁹

The 2017 Horse Council survey found that Pennsylvania had 225,628 horses. Such a discrepancy indicates a lack of reliable data. If the number of horses is closer to the U.S. Department of Agriculture census than the Horse Council, the economic impact from that report would have to be adjusted downward proportionately.

Horse Racing No Longer a Winning Proposition for the State

The first wagering tax was established in the 1959 law that legalized harness racing. Of the 15% revenue, or residual, earned by the racetracks each day, a 5% tax—the pari-mutuel tax—was paid to the Pennsylvania Department of Revenue. After paying the costs of the Harness Racing Commission, three-quarters of the remainder was deposited into the General Fund and one-quarter was paid out to the Pennsylvania Fair Fund.

104 Danielle Smarsch, 2020. "Pennsylvania is a Top Ten Horse State," Penn State Extension. January 17, 2020. Blogpost. Accessed at: <https://extension.psu.edu/pennsylvania-is-a-top-ten-horse-state>.

105 Joint State Government Commission, op. cit., p. 6.

106 Joint State Government Commission, op. cit., p. 3.

107 U.S. Department of Agriculture. 2019. "Census of Agriculture Pennsylvania State and County Data," April, 2019. Table 29 p. 26. Accessed at: https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_State_Level/Pennsylvania/pav1.pdf.

108 Ibid. Table 17. All Farms with December 31, 2017 milk cow inventory.

109 Ibid. Table 2.

Similar provisions were applied when thoroughbred racing was legalized in 1967. Of the 15% retained by tracks (17% in Philadelphia) 5% was paid to the Department of Revenue (DOR). The law also allowed the state to keep a share of the breakage (the portions of pennies remaining when payouts are rounded to the nearest 10 cents). After paying the expenses of the State Racing Commission and DOR, the remainder was deposited into the General Fund.¹¹⁰

As early as 1981, the industry was already declining and the interested parties—track owners and horsemen pressed for a greater share of the take. The Race Horse Industry Reform Act of 1981 and subsequent amendments made a number of changes to benefit the industry. It increased the tracks’ share of the live handle to 17% (19% in some cases), reduced the pari-mutuel tax from 5% to 1.5% (2.5% for exotic wagers), and made several new allocations to the breeders’ funds and local economic development projects. These changes reduced the allocation to the General Fund by \$5 million.^{111 112}

In 2015, revenue from the pari-mutuel tax was no longer sufficient to pay for the administration and enforcement activities of the Pennsylvania Department of Agriculture. Revenue had fallen to just over \$11 million and expenses had reached \$20 million.¹¹³

Table 5 shows the total live handle amount from in-state and out-of-state wagers and revenue for the Racing Fund, which consists of the pari-mutuel tax and monies from racing licenses and fines. Throughout the period the share of live handle from out of state, which is exempt from the tax, grew while the share of live handle from in-state sources—the taxable handle—fell.¹¹⁴

Table 5. Live Handle

Fiscal Year	In-State Wagers (T)	Out-of-State Wagers (E)	Total	Growth	Tax Revenue	Licenses and Fees	Total	Growth
2008-09	\$123.1	\$631.8	\$754.8	11.6%	\$13.9	\$0.8	\$14.7	30.5%
2009-10	114.6	650.7	765.3	3.0	13.2	0.6	13.9	-5.7
2010-11	99.1	613.0	712.1	-5.8	10.3	0.7	11.0	-20.7
2011-12	98.6	638.2	736.8	4.1	12.9	0.6	13.6	23.4
2012-13	93.3	695.9	789.3	9.0	11.4	0.6	12.0	-11.3
2013-14	80.7	681.3	762.0	-2.1	10.1	0.7	10.8	-10.0
2014-15	79.3	680.7	760.0	-0.1	8.9	0.7	9.6	-11.8
2015-16	64.8	625.7	690.5	-9.1	9.0	0.6	9.7	1.2

Notes: Dollar amounts are in millions. (T) represents taxable. (E) represents exempt wagers made on Pennsylvania races.

Source: PA Independent Fiscal Office. Research Brief 17-2. Pennsylvania Gaming Trends. www.ifo.state.pa.us.

Act 52 of 2014 applied the pari-mutuel tax to out-of-state-wagers, but the tax was repealed in 2016 and revenue refunded.

Act 7 of 2016 addressed the structural deficit in the fund, at least for five years, by shifting the cost of the state toxicology lab to the Race Horse Development Fund and increasing the state share of the breakage from 25% to

110 Joint State Government Commission, op. cit., p. 3-4.

111 The share allocated to the state general fund was reduced from 100% after all payments and expenses to 82%, with the remaining 18% allocated to the Pennsylvania Fair Fund.

112 Race Horse Industry Reform Act of 1981. Act of December 17, 1981 (P.L. 534, No. 135).

113 Commonwealth of Pennsylvania. Governor’s Executive Budget 2015-16. p. H66. Accessed at: https://www.budget.pa.gov/PublicationsAndReports/CommonwealthBudget/Documents/2015-16%20Proposed%20Budget/2015-16_Budget_Document.pdf.

114 PA Independent Fiscal Office. Research Brief 17-2. “Pennsylvania Gaming Trends”. February 2017. Accessed at: www.ifo.state.pa.us.

37.5%. It also required that 50% of any surplus would be split between the Sire Stakes Fund and the Breeding Fund.¹¹⁵

The idea that racing should contribute to the General Fund to pay for education or health care as it did in the early years has not been suggested recently. Instead, the industry no longer generates enough revenue for the state to even pay its own expenses.

Section VI: Oversight Is Limited and Conflicts of Interest Abound

The Race Horse Development Fund operates with little transparency and great potential for conflicts of interest. The powers of the Department of Agriculture, which is charged with administration and oversight, are severely constrained and the industry's regulatory body is dominated by the horsemen. Millions in tax dollars are doled out to private individuals with a minimum of public disclosure or accountability.

The 2016 law that restored solvency in the Racing Fund came at a price. While it increased the share of racing revenue allocated to the state and shifted the cost of the toxicology lab to the Race Horse Development Fund, it gave the Horsemen seats on the new State Racing Commission, gave the commission the authority to select state at the Department of Agriculture and made the PRHDF a "trust" to insulate it from use for other commonwealth purposes.

Act 7 of 2016 created a nine-member commission with four members serving as representatives of four horsemen's associations, selected by the governor from lists provided by the associations. Four additional members are appointed by the legislature and one final member, a licensed veterinarian, is appointed by the Governor. The Secretary of Agriculture serves as the chair.¹¹⁶

Of the nine current members, five have financial interests to preserve. The four association representatives have control over the millions in breeding funds, plus oversight and regulatory compliance. The fifth member, the veterinarian, is employed at the New Stanton center, which has the contract for all testing of winning horses for performance enhancing drugs. See Appendix 2.

This configuration is a marked contrast to the membership of the Pennsylvania Gaming Control Board which regulates the casino industry. There are no members from the casino industry on the board. Instead, regulations require a board member to disclose and abstain from voting on any matter in which they or family members have financial interest. The regulations also separate the adjudicatory function from the investigative and prosecutorial functions "to ensure the integrity and impartiality of the Board or presiding officer acting in an adjudicatory capacity."¹¹⁷

Act 7, on the other hand, sets extraordinarily loose conflict of interest rules for the horsemen. Commissioners must disclose an action that might pose a conflict of interest, but the commission members decide among themselves whether the issue is a conflict requiring recusal.¹¹⁸

A commission member who is not a horseman is barred from accepting employment with a licensee or licensed racing entity, affiliate, intermediary or holding company for two years after leaving the commission, but no such prohibition applies to the members representing the horsemen's associations.

115 Section 720.54, 71 P.A. Code accessed at: <https://casetext.com/statute/pennsylvania-statutes/statutes-unconsolidated/title-71-ps-state->

116 The components of Act 7 were reauthorized in Act 114 of 2016. Section: 2811-D State Racing Commission. Accessed at: <https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2016&sessInd=0&act=7>.

117 Section 401 a.5. Accessed at: https://gamingcontrolboard.pa.gov/files/regulations/Final_Regulations_Master.pdf p48.

118 Act 7 of 2016. Section (2811-D, (b)(vi)).

A commissioner is barred from having an interest in a licensed racing entity—a racetrack—but not in a horse or a horse farm. The horsemen’s representative can still receive a purse or a breeder’s award while serving as a commissioner. The law explicitly states: “Nothing in this section shall be construed to prohibit a commissioner appointed under paragraph (1) from being awarded a purse or breeders’ award for the commissioner’s participation in horse racing”, and nothing prohibits one of these representatives from having a direct or indirect ownership interest in a horse.¹¹⁹

As an example, Salvatore DeBunda is a member of the State Racing Commission and also serves as the president of the Pennsylvania Thoroughbred Horsemen’s Association (PTHA). According to the Association’s most recent audit, the law firm in which he is a partner represents the PTHA and Mr. DeBunda, separately, has a \$60,000 consulting contract with the PTHA.¹²⁰

The voting rules are established so that the association’s representative must sign off on decisions that affect their membership. Operations of the thoroughbred section, including the hiring of the bureau director, regulations, and approval or denial of a license must have the votes of the two thoroughbred association appointees (or at least one if the other is absent). Similarly, operations of the standardbred section, including hiring of the bureau director, licensing decisions, and regulations cannot be approved without the votes of the standardbred association appointees.¹²¹

Breeders Fund Controlled by the Breeders with Little Oversight

The Pennsylvania Breeders Association has historically had some responsibility for administering the Breeders Fund. The 1981 act made that role explicit, stating that the Commission may contract with the PA Breeders Association to administer the program, but the power to select an administrator remained with the Commission, providing some potential for independent oversight and accountability.¹²²

Under Acts 7 and 114, the “may” was changed to a “shall” giving full control to the Breeders Association.¹²³ There is no contract; the sole requirement is that the Association submit a proposed budget of expenditures prior to the racing year. The Joint State Government Commission flagged this issue in its 2017 report, stating that “as a non-competitive, sole source contract, caution must be used in contract negotiations” and recommended that a detailed written contract be created “with adequate provision to address any potential conflicts of interest.”¹²⁴

Act 7 also makes clear that the state employees responsible for oversight of the industry don’t work for the secretary of agriculture, the governor, or the people of Pennsylvania. They work for the Commission.

The law establishes the Office of Horse Racing in the Department of Agriculture and creates two bureaus: a Bureau of Standardbred Racing and a Bureau of Harness Racing. The bureau directors serve and report to the Commission only and the law makes explicit that they do not report to the Department of Agriculture. All licensing, enforcement, and administrative operations are assigned by the Commission.¹²⁵

The careful separation of adjudication and enforcement functions found in the regulations governing the Gaming Commission are thrown out the window by Act 7.

¹¹⁹ Act 7 of 2016. Sections (2811-D (b)(xii)), (2811-D (b (xx))).

¹²⁰ Maher Drussel, Independent Public Accountants. 2018 “Pennsylvania Thoroughbred Horsemen’s Association, Inc. Combined Financial Statement and Supplementary Information Year ended December 31, 2017 with Independent Auditors Report,” January 2, 2019. p. 18. Accessed at: <https://www.budget.pa.gov/PublicationsAndReports/AuditReports/Documents/HorsemensAuditReports/PTHA/ptha-financial-statement-audit-2017.pdf>.

¹²¹ Act 7 of 2016 Section 2811-(D)(f) –Voting

¹²² Act of December 17, 1981 (P.L.435, No.135) § 223(g).

¹²³ Act 114 of 2016. 3 Pa.C.S. § 9336(f). Accessed at: <https://codes.findlaw.com/pa/title-3-pacsa-agriculture/pa-csa-sect-3-9336.html>

¹²⁴ Joint State Government Commission, op. cit., p. 80.

¹²⁵ Act 7 of 2016 Section 2811-D (D)(2).



Horses and jockeys coming down the final stretch to the finish line at Parx Casino and Racing in Bensalem, PA on September 14, 2013. (Colin Kerrigan / Philly.com)

Transparency

There is little public information available on the Pennsylvania Racing Commissions website. The law requires specific information be provided in an annual report, but allows the Racing Commission to jointly submit a report with the Pennsylvania Gaming Control Board. Gaming reports aren't posted on the Agriculture website and do not contain all of the information required in the statute, including information on enforcement actions. Many other states do a better job posting information of interest to the general public on state run websites.

The Commission has put its rulings online at www.pahorseracerulings.pa.gov, but the site is almost impossible to use. To access any data, the user must know the name of the individual, stable name or partnership name.

The Standardbred Development Fund is administered by the Bureau of Standardbred Racing, but there is little public information on the site. Forms needed by participants are readily available but there is no list of winners or award amounts. The site refers users back to the Standardbred Breeders website, which has no additional information. The list of registered stallions is the only information about beneficiaries on the site. The Sire Stakes race schedule is provided on the website, but there is no information about results.¹²⁶

The Bureau of Thoroughbred Racing does not post information about winners or award amounts, instead that information is provided by the Pennsylvania Thoroughbred Breeders Association. Since the breeding programs are funded with tax dollars, presumably because there is some public benefit, information about the distribution of those funds should be available to the public on the Commission website.

The only apparent oversight of the public funds administered by the horsemen's associations is the practice of annual audits conducted by the Bureau of Audits at the Office of the State Comptroller. Who looks at those audits or how the public interested is safeguarded is an open question. A review of the most recent audits found several findings of interest:

For the Audit Year Ending June 30, 2017:

- Pennsylvania Horsemen's Benevolent and Protective Association. Significant deficiency: one of the officers is not registered with the PA Gaming Control Board. Finding 2017-001.

¹²⁶ Pennsylvania Department of Agriculture. PA Stallion Registration Report for Breeding Season 2020. No Date. Accessed at: <https://www.agriculture.pa.gov/Animals/RacingCommission/PA%20State%20Harness%20Racing/Documents/2020%20Stallion%20Registration%20Report.pdf>.

- o One member did not complete the registration application. The PAHBA stated it is not its responsibility to ensure compliance with the Pennsylvania Gaming Control Act. The PGCB subsequently began an enforcement action, but the board member stated he has a muscle disease and is unable to fill out the form.¹²⁷
- PA Thoroughbred Horsemen’s Association. Audit finding 2017-001. Failure to transfer funds collected into the Association’s political action committee.
 - o The PTHA charges a fee for every horse, for every race, on every race day half of which goes into its political action committee. The Association increased the fee from \$10 to \$20 per race. The audit found there was no documentation that the increase was communicated with members or acknowledgement that the fee was a voluntary fee and that the association commingled PAC funds with taxpayer funded accounts. The Association responded that it modified its racing condition book on page 54 to inform the owners and trainers that they can notify the Association, in writing, that they do not acquiesce to the deduction for the PAC, known as the “Association Purse Protection and Promotion Fund.”¹²⁸
- Pennsylvania Thoroughbred Horsemen’s Association. Audit finding 2017-002.
 - o The Association violates the racing regulations because it keeps its 3% share of the purse monies in the purse account rather than in a separate account. It recommends the agreement it has with the track (the live racing agreement) be amended to ensure compliance. The audit finding has been made at least since 2010 and is disputed by the Association.¹²⁹
 - o None of the 2017 audits of the other horsemen’s associations had this finding.

Racing’s Impact on the Horses

In addition to the financial cost to Pennsylvania taxpayers, horse racing takes a heavy toll on the horses themselves, the athletes who are the heart of the industry.

The 2019 deaths of dozens of horses at the Santa Anita racetrack in 2019 caught the attention of many Americans and was widely covered in the press. Those deaths were not an anomaly, but an inevitable fact—a cost of doing business. The Jockey Club estimated that nearly 10 horses per month died on racetracks in 2018.¹³⁰

A comprehensive list of race horse deaths is maintained at Horseracingwrongs.org. Using data from state racing commissions the website counts deaths that take place while horses are racing, training, or in stalls.

In 2019, the track with the greatest number of race horse deaths was not Santa Anita with 43 deaths, or Gulfstream with 58, or Belmont with 44, but Parx Racing, with 59 dead horses.

Since 2010, 1,400 horses have died at Pennsylvania racetracks. More than half were killed at Parx Racing in Bensalem and hundreds of others have died at Penn National, Presque Isle, and the three harness tracks. 2015 was one of the worst years with 138 dead horses, including 60 at Parx, 58 at Penn National, and 14 at Presque

127 Maher Drussel, Public Accounting Firm. Pennsylvania Division Horsemen’s Benevolent and Protective Association, Inc. 2018. “Financial Statement and Supplementary Information Year Ending June, 2017” January 8, 2018. p. 22. Accessed at: <https://www.budget.pa.gov/PublicationsAndReports/AuditReports/Documents/HorsemensAuditReports/HBPA/hbpa-financial-statement-audit-2017.pdf> p. 22.

128 Pennsylvania Thoroughbred Horsemen’s Association, op. cit., p. 32. Accessed at: <https://www.budget.pa.gov/PublicationsAndReports/AuditReports/Documents/HorsemensAuditReports/PTHA/ptha-financial-statement-audit-2017.pdf>.

129 Ibid. p. 33.

130 Joe Drape and Corina Knoll. 2019. “Why So Many Horses Have Died at Santa Anita,” New York Times, June 26, 2019. Accessed at: <https://www.nytimes.com/2019/06/26/sports/santa-anita-horse-deaths.html>.

Isle. Deaths dropped the following years but grew to 119 in 2019 and 2020, despite tracks being closed for four months, 74 horses died.¹³¹

On March 2, 2020 three horses died in one day at the Parx Racetrack.

Once retired from racing the life of many racehorses, after a large public investment, and even after providing considerable winnings to their owners, is a poor one. Many are injured or crippled, and expensive to maintain when they are no longer productive, so many are discarded by their owners.

Pennsylvania has several auction houses, known by many as kill pens, where these abandoned horses end up. The largest is in New Holland PA, but there are smaller establishments scattered throughout the state.

Some of the horses brought to these auction houses are sold for farm labor but many are bought and shipped to Canada or Mexico where they are slaughtered for dog meat or for human consumption.

There is an effort to end this practice.

Investigations in the European Union several years ago found that horse meat had been mixed with beef in food. This prompted concerns about the misleading sales of beef and concerns about the introduction into the food supply of drugs – legal and illegal - that may have been in the horsemeat.

In early 2019, Reps. Jan Schakowsky (D-IL), and Vern Buchanan (R-FL) re-introduced the SAFE Act of 2019 in Congress (H.R. 961) to prohibit the slaughter of horses in the U.S. and the export of horses for slaughter. The bill would make it illegal under the Federal Food, Drug, and Cosmetic Act to knowingly sell or transport horses or parts of horses in interstate or foreign commerce for purposes of human consumption.¹³²

The simple truth is that the Race Horse Development Fund creates an oversupply of horses supporting a worldwide trade in horsemeat, paid for with taxpayer dollars.

Section VII: The End is Coming

The gaming landscape has changed considerably since 2004. The first casino licenses were issued to politically connected locals – today the casinos are all operated by large multistate gaming companies, often publicly traded, whose leadership and shareholders are not motivated by nostalgia, but by the cutthroat competition in the gaming industry and a declining horseracing industry that generates little revenue.

With the introduction of internet and sports betting, gaming is reaching a new, younger audience, an audience that has exhibited little interest in horseracing. Sensibilities have changed and younger people seem reluctant to embrace a sport that is perceived as exploiting horses for profit.

The first nail in horse racing's coffin came, ironically, from the Churchill Downs Corporation, the purveyors of horseracing's flagship event, the Kentucky Derby. There has been a legislative effort to decouple tracks from casino licenses in Florida that has not yet been successful. The company built a casino at the track in 2010 and fought a legal battle to maintain its casino license and close the track, which it succeeded in doing at the end of 2020.¹³³

131 Website: Horseracingwrongs. Accessed at: <https://horseracingwrongs.org/killed-2019/>.

132 American Horse Council, April 4, 2021 accessed at: <https://www.horsecouncil.org/issue/legislation-2/#toggle-id-1>

133 <https://www.thoroughbreddailynews.com/florida-racing-prepares-to-say-goodbye-to-calder/#:~:text=Barring%20an%2011th%20hour%20reprieve,has%20been%20operating%20since%201971.>

The pandemic also impacted the casino industry, with casinos and tracks closed down for part of 2020 and 2021. The head of New Mexico’s Racing Commission was honest about racing’s total dependence on casinos during the pandemic. “We could open horse racing up, but if the casinos don’t open we’re going to be in a pretty bad spot,” Izzy Trejo, the executive director of New Mexico’s racing commission, told the *Santa Fe New Mexican* last April. “The marriage needs to stay intact. A divorce is deadly to horse racing because we’re not going to generate enough money to have substantial purse money if we depend merely on pari-mutuel handle that doesn’t involve casinos.” The pandemic may have accelerated the decoupling debate. In New York, the Governor’s 2021 budget proposed exempted the newly opened Rivers Casino in Schenectady, which has no racetrack, from paying into that state’s racing fund. More casinos may balk at paying into the horseman’s funds, particularly those that are not affiliated with race tracks.



Spectator seats at Parx Casino and Racing in Bensalem, PA on September 14, 2013. (Colin Kerrigan / Philly.com)

Section VII. Conclusion and Recommendations

Act 71 of 2004 created the Pennsylvania Race Horse Development and Gaming Fund which legalized casino gambling and allocated taxpayer funds to support the race horse industry. Since that time, the Commonwealth has spent more than \$3 billion to keep the industry afloat. By every measure the sport is in decline, attendance is low, the number of horses bred is lower and Pennsylvanians are betting one-third of what they did when the law was passed, and betting it on horses running outside the Commonwealth.

The theory behind Act 71 was to draw more bettors to increase the live handle—which did occur for out-of-state bettors. But tracks make only 4% on those bets. The Commonwealth spent \$232 million in 2016 to generate \$24.8 million in additional revenue to the tracks and horsemen. Any way you look at it, it’s a bad bet.

The vast majority of taxpayer funds end up as cash in the pockets of horse owners, half of whom come from out of state, as they ride the horse circuit. Owning and racing a horse is a passion that few Pennsylvanians can afford to take part in. They should not have to subsidize those who can afford to enter this exclusive club.

The rest of the funds go to a very small number of connected horsemen who preside over the tracks, the owners,

trainers and breeders. They benefit in multiple ways—trainers and breeders also own and race horses, collecting fees and purses. Perhaps a small amount trickles down to the workers at the back of the track.

The Race Horse Development Fund is the state's single largest annual economic development program. Yet racing's economic footprint is small—much smaller than the rest of the equine industry—not to mention the agricultural industry as a whole. It creates just over 1,700 full-time track jobs and fewer than 10,000 direct jobs overall. The tourism industry, which creates 310,000 direct jobs, received \$18 million in General Fund support in 2019. At the Senate Appropriations Committee hearing for the Department of Agriculture in March 2020, Secretary Russell Redding indicated that after \$3 billion in spending over the years it is appropriate to believe the industry should be self-sustaining. That seems to be a very reasonable position.

A first step would be to acknowledge that horseracing is about gambling, not agriculture. It's like saying baseball is agriculture because of all the popcorn that is consumed at ballgames. People watch baseball for the sport and watch racing to bet.

It's time for the Commonwealth's subsidy to end. We recommend eliminating the PHRDF and reinvesting these funds into the state's future workforce through pre-k, public school funding, and/or public higher education. These forward looking investments will better prepare our children and our state for the ever changing economy.

The law should be changed to create an independent state racing commission with rules similar to those of the state gaming commission. The horsemen's associations should play an advisory role only, as they did until 2016. Administration of the PA Breeders Fund should be put out to bid with a limited term, renewable contract.

As long as taxpayers are subsidizing racing, the industry can avoid facing the issues that other businesses have to contend with—changing consumer demand. Discussions about the future of racing are occurring nationally. Florida is considering legislation to decouple casino licenses from tracks. There is talk of a small number of supertracks that can meet the demand for gamblers.

When that occurs, owning a race horse will be less lucrative, but it will still provide “a wonderful network of new friends, endless social activities, a sense of significant achievement and hours of unsurpassed entertainment.”

Appendix 1

Economic Multipliers	
Gambling Industries	1.87
Animal Products Exc.Cattle-Poultry	1.65
Other Government	22.8
Food Service -Drinking	2.17
Alternative Uses	
Elementary-Secondary Education	2.08
Infrastructure: Water Sewer	1.83
Infrastructure: Highways and Streets	2.15
Tax Relief to Households	1.2-1.4

Source: IFO RHDF Economic Impact Summary p.21

Appendix 2

Members of the Pennsylvania State Racing Commission:

- Russell C. Redding, Chairman: PA Secretary of Agriculture. Former dean of the School of Agriculture and Environmental Sciences at Delaware Valley College.
- Russell B. Jones, Jr.: Horseman.
- Salvatore M. DeBunda, Philadelphia County: Lawyer, owns a farm and races horses. President of the Pennsylvania Thoroughbred Horsemen's Association.
- Dr. Corinne Sweeney: Veterinarian and an associate dean at the New Bolton Center for Veterinary Medicine at the University of Pennsylvania. The New Bolton Center holds the contract for drug testing of all Race Horses.
- Dr. John Egloff: Standardbred Breeder, Owner of Vieux Carre Farms. Vice president of the Standardbred Breeders Association.
- Robert F. Lark: Stoneboro Council President.
- Darryl Breniser: Retired vice president of sales and marketing for M. H. Eby Inc., an aluminum trailer company.
- C. Edward Rogers, Jr.
- Thomas Jay Ellis: Municipal bond attorney at Duane Morris. Served as chair of the Montgomery County Commissioners. Was the county's representative to the SEPTA board.
- Michele C. Ruddy, Lackawanna County