



COMMITTEE ON
Racing and Wagering

2019 ANNUAL REPORT

NEW YORK STATE ASSEMBLY



CARL E. HEASTIE, *Speaker*

J. GARY PRETLOW, *Chair*



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

J. Gary Pretlow
Assemblyman 89th District

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

CHAIR
Racing & Wagering

COMMITTEES
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Assembly Steering Committee

December 15, 2019

The Honorable Carl E. Heastie
Speaker of the Assembly
Room 932
Legislative Office Building
Albany, NY 12248

Dear Mr. Speaker:

As Chairman of the Assembly Standing Committee on Racing and Wagering, I am pleased to submit to you the Committee's 2019 Annual Report. Each year, the Committee continues to make advances in the racing world, working to advance legislation aiming to improve horse racing and gaming activities in the state of New York. This included legislation which addressed charitable gaming, the horse racing industry, responsible gaming, and casino gambling.

During the 2019 Legislative Session, the Committee reported several bills that would provide continued support to the horse racing, horse breeding, and gaming industries, including bills establishing oversight commissions to study issues within the world of racing and wagering. The Commission on Retired Racehorses would help address the lack of oversight regarding racehorses that have retired from the industry by establishing a database to monitor the sale and transfer of racehorses once they have finished their racing careers. The Legislative Task Force on Responsible Gaming would study and recommend policies and programs that promote responsible gaming, while mitigating the risks and consequences associated with problem gambling. As the Commercial gambling industry continues to grow in New York State, it is imperative to continue researching problem gambling in order to maintain safety within the industry.

In addition, the Committee also advanced legislation to: create a local advisory board for Belmont racetrack; require bell jar tickets to be marked with a legend from the NYS Gaming Commission; extend certain payment procedures for the New York Thoroughbred Breeding and

Development Fund; extend certain additional funding support for backstretch workers and their families; authorize mobile sports wagering; increase the number of times authorized charitable organizations can hold bingo games per year; clarify the role of the Gaming Inspector General; and authorize the Gaming Commission to maintain alcohol licenses for class III Indian casinos.

I would like to take this opportunity to thank the members of the Assembly Standing Committee on Racing and Wagering for their input and support during the 2019 Legislative Session. I would also like to thank you, Mr. Speaker, for your continued support. The Committee members and I look forward to working with you during the upcoming 2020 Legislative Session to continue to strengthen New York State's great racing, wagering and gaming infrastructure.

Warm Personal Regards,

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

J. Gary Pretlow

Chair, Committee on Racing and Wagering

**2019 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON RACING AND WAGERING**

J. Gary Pretlow, Chair

Committee Members

Majority

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

Minority

Michael LiPetri
Andrew Garbarino
Peter Lawrence

Staff

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Sarah Klein, *Associate Counsel*
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Nicole VanAuken, *Program and Counsel Secretary*
Kaitesi Rama-Munroe, *Committee Clerk*

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I. INTRODUCTION

The New York State Assembly Standing Committee on Racing and Wagering has jurisdiction over legislation affecting all activities related to horse racing and various forms of gaming across New York State. Its purview includes the New York State Racing, Pari-Mutuel Wagering and Breeding Law, as well as portions of the New York State Tax Law and the New York State General Municipal Law.

The New York State Gaming Commission is responsible for regulating all aspects of racing and gaming activity within the State, including pari-mutuel wagering, Class III Indian Gaming, the New York Lottery, video lottery gaming, charitable gaming, commercial casino gambling, and interactive fantasy sports. The New York State Gaming Commission is comprised of four divisions:

- The *Division of Lottery* is responsible for the operation and administration of the New York Lottery for education, and for all aspects of promotional activities related to video lottery gaming.
- The *Charitable Gaming Division* is responsible for licensing charitable organizations and verifying the lawful disbursement of proceeds from games of chance such as bingo, bell jar tickets, Las Vegas nights and raffles.
- The *Gaming Division* is responsible for the appropriate administration, regulation and oversight of commercial casino gambling, video lottery gaming, and Indian gaming on tribal land as defined by lawful Tribal-State compacts established pursuant to the federal Indian Gaming Regulatory Act of 1988.
- The *Horse Racing and Pari-Mutuel Wagering Division* is responsible for the supervision, regulation and administration of all horse racing and pari-mutuel wagering activities.

During the 2019 Legislative Session, the Committee acted on bills which: created a task force on responsible gaming, increased the number of bingo games charitable organizations may hold, created parity between commercial and Indian casinos for oversight of liquor licenses, and provided continued support to both the Standardbred and Thoroughbred horse racing and breeding industries.

II. 2019 LEGISLATIVE ACTION

A. State Lottery

The New York Lottery was enacted in the New York State Constitution in 1966 to generate increased aid to education for local school districts. The New York Lottery contributed \$3.37 billion in State Fiscal Year 2018-19 to help support primary and secondary education in New York State. The New York State lottery program continues to be the largest and most profitable in the United States, earning over \$68.03 billion to support education since its founding.

Along with traditional lottery games, such as scratch-off tickets and number drawings like *Mega Millions* and *Powerball*, the New York Lottery is also responsible for all aspects of promotional activities for the eight video lottery terminal facilities (also known as “racinos”) located at various racetracks across the State. These facilities offer casino-style gaming with winning outcomes transmitted by a central system administered by the New York State Gaming Commission. In addition to contributing a significant amount to State education funding, net proceeds from video lottery gaming also provide vital assistance to New York’s horse racing and breeding industries.

1. Vernon Downs Operational Expenses

A. 7773 (Buttenschon)/S. 6270 (Addabbo); Chapter 68 of the Laws of 2019

Since their inception, Video Lottery Terminal facilities have been an integral part of the gaming landscape in New York State. These facilities provide funds to protect the harness racing industry throughout the year, and it is crucial to ensure these facilities continue to thrive. This legislation extends provisions allowing Vernon Downs VLT facility to divert funds from administrative expenses and from Capital Awards for the use of operational expenses, in order to maintain the facility and continue to operate for the benefit of the industry.

2. Authorization of a Video Lottery Terminal facility in Orange County

A. 8433 (Weinstein)/S. 6615 (Krueger) Part S; Chapter 39 of the Laws of 2019

The historic Monticello Harness Racetrack in Sullivan County has been a staple of the New York racing industry for over 60 years. In order to maintain racing at such an important track, it became necessary to reevaluate the location of the Video Lottery terminal facility in order to increase revenues for the benefit of the racetrack. This legislation would authorize a Video Lottery Terminal facility in Orange County in order to do so.

B. Class III Casino Gaming

Class III Casino gaming was authorized by an amendment to the New York State Constitution in 2013. Since its inception, casino gaming has expanded greatly across

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

1. Mobile Sports Wagering

A.6113-C (Pretlow)/S. 17-D (Addabbo); Reported to Committee on Codes

When the United States Supreme Court ruled on *Murphy v. National Collegiate Athletic Association* last year, deeming the Professional and Amateur Sports Protection Act of 1992 (PASPA) unconstitutional, it became possible to establish sports wagering at the state level. Since then, both Commercial and Indian casinos across the state have opened brick and mortar sports wagering lounges within casino facilities. Due to the rise in popularity of sports wagering, the next step for many is the ability to offer sports wagering through mobile applications on smartphones. Those wishing to participate in sports wagering would no longer have to bet in person at a physical location, instead allowing them to make bets right at their fingertips.

This bill would establish a system for mobile sports wagering at sports arenas, OTBs, and other affiliate locations through servers located at the four commercial casinos across upstate New York. This bill would allow residents of New York State to bet on sports games through mobile applications, instead of having to place bets in person. This bill also establishes a system of player protections and safeguards within the industry, to ensure that integrity is maintained while wagering continues to expand within the state.

2. Oversight of Indian Nation Casino Liquor Licenses

A. 8167 (Pretlow)/ S.6271 (Addabbo); Chapter 644 of the Laws of 2019

Oversight of liquor licenses for the four upstate Commercial Casinos is maintained by the Gaming Commission, instead of by the New York State Liquor Authority (SLA). For the many Indian Nation Class III Tribal Casinos throughout the state, liquor licenses are overseen by SLA. This bill would allow for any of the liquor licenses operated by Class III Tribal Casinos to be maintained by the Gaming Commission, should the Class III Tribal Casino choose to do so, provided that the Casino waives its sovereignty only for such purposes.

C. Horse Racing and Breeding

New York State is home to one of the leading horse racing programs in the nation. Each year, millions of dollars are wagered on races at the three largest Thoroughbred racetracks in the State, operated by the New York Racing Association, Inc. (NYRA); Aqueduct Racetrack in the South Ozone Park neighborhood of Queens; Saratoga Race Course in Saratoga Springs, which is the oldest horse racing venue in the United States and home of the prestigious Travers Stakes; and Belmont Park in Nassau County, host to the longest dirt track in North America as well as the third and final leg of the Triple Crown. Additionally, nestled in the State's picturesque Finger Lakes region, New York's fourth Thoroughbred track: Finger Lakes Gaming and Racetrack in Ontario County.

Across the State, there are also several Standardbred racetracks where patrons can view live harness (also known as "trotting") races: Empire City Casino at Yonkers Raceway in Westchester County; Hamburg Gaming and Buffalo Raceway at the Fairgrounds in Erie County; Batavia Downs Gaming in Genesee County; Vernon Downs Casino and Hotel in Oneida County; Monticello Raceway in Sullivan County; Saratoga Casino and Raceway in Saratoga County; and Tioga Downs Casino and Raceway in Tioga County.

In addition to attending live race meetings, racing fans can place wagers remotely through any of the State's five regional off-track betting corporations (OTBs) – Western, Capital, Catskill, Nassau or Suffolk. Because OTBs are public-benefit corporations, millions of dollars in wagering revenues have been distributed to aid local governments across the State since their inception in 1970. Both racetracks and OTBs feature simulcasting of races taking place in New York State as well as races taking place in other states and countries around the world.

1. Payments to the New York State Thoroughbred Breeding and Development Fund A. 6184 (Pretlow)/S. 2314 (Addabbo); Chapter 343 of the Laws of 2019

For the past few years, there has been a consistent decline in wagers placed on horse races across the state. Because of this, the New York State Thoroughbred Breeding and Development Fund ("the Fund") has experienced a significant reduction in the payments it receives from racetracks and regional off-track betting corporations, limiting its ability to make required investments in the State's racing and breeding program.

For these reasons, Chapter 473 of 2010 authorized the Fund to collect its percentage of wagers on a quarterly basis instead of annually. The chapter also increased the maximum percentage of the Fund's revenues that could be used for: breeder awards, from 50 percent to 65 percent; publication and dissemination of information relating to the advancement and promotion of the breeding and raising of thoroughbreds in New York State and related agricultural pursuits, from five percent to six percent; and administration and management of the Fund, from four percent to five percent.

This bill would extend such provisions for an additional year, with a sunset date of October 28, 2020.

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

A.4734 (Pretlow)/S. 2315(Addabbo); Chapter 122 of the Laws of 2019

This legislation extended the authorization for the New York Thoroughbred Horsemen's Association (NYTHA) to receive an additional one percent of all purses collected from race meetings held at racetracks operated by the New York Racing Association, Inc., for a total of two percent, for an additional year, until August 31, 2020. This money is used to provide additional essential services to backstretch employees, including medical and health benefits, counseling and social services, and scholarship opportunities. NYTHA also earmarks funds for retired racehorses, equine health, safety and research.

3. Belmont Advisory Board

A. 2317-B (Solages)/S. 5481-B (Kaplan); Chapter 688 of the Laws of 2019

Of the three New York Racing Association racetracks in New York State, Belmont Racetrack is currently the only track without an advisory board, allowing for community input and increased oversight of the facility. With the expansion of the New York Islanders National Hockey League facility next door, it is imperative that the community and other stakeholders are able to voice their concerns. This bill would create a 15-member board to oversee the needs of the community and the racetrack, creating parity between the Belmont racetrack and both Saratoga and Aqueduct racetracks.

4. Commission on Retired Racehorses

A. 3535-A (Pretlow)/S. 1974-A (Addabbo); Passed Senate

A continuing concern for the racing industry is how to best care for both standard and thoroughbred racehorses once they retire from their racing careers. For Thoroughbred racehorses, many only have a career span of 3-5 years. Therefore, it is important to find second careers or other safe and healthy avenues for horses once they have retired. The Commission on Retired Racehorses will study and make recommendations to the Legislature and Governor on how best to help these horses. The commission will also establish a database in order to monitor each retired racehorse in the State and their owners.

D. Charitable Gaming

Charitable gaming is a popular fundraising device for local organizations that want to offer games of chance such as bingo, raffles, bell jar tickets and other similar games. In New York State, these games are offered by licensed charitable, religious and nonprofit organizations, as approved by the New York State Gaming Commission, on the condition that such games must occur in a municipality that has passed a local law or ordinance authorizing charitable gaming activities. Over the years, revenues from charitable gaming have been steadily decreasing, putting the livelihoods of many of these organizations in

jeopardy. Recent focus has been put on finding new ways to increase these revenues in order to provide greater funding support for important programs and services in the communities in which these organizations serve.

1. Operation of Bingo Games by Charitable Organizations

A.6212-A (Rosenthal D)/S. 3917-A (Stavisky); Chapter 470 of the Laws of 2019

Many charitable organizations host bingo games on a regular basis as a means of providing entertainment to older New Yorkers. These games have a low prize limit, and are used as a social outing for many. Currently, these organizations are only able to host 15 bingo games each year. This bill would allow such organizations to host bingo games once a week throughout the year. The bill would also clarify the different types of organizations which are able to host these games, to include religious groups as well.

2. New York State Legend on Bell Jar Tickets

A.4623 (Pretlow)/S. 4587 (Sanders); Veto Message 152

With the popularity of bell jar games as a device for fundraising for charitable organizations, efforts to both keep the game within standards of the State and easily understood by such organizations is a priority. To relieve administrative burdens on volunteer organizations, this bill requires that all bell jar tickets sold in New York State have an approved New York State legend located on the ticket. This legend would simplify the process of determining the legality of bell jar tickets for sale.

E. Responsible Gaming

Gambling addiction can occur in many different forms and affect many people. It is often referred to as a “hidden illness” because, unlike other addictions, there are no obvious physical signs or symptoms. With the recent expansion of gambling in New York State, it has now become more essential than ever to review and improve existing rules and regulations designed to address problem gambling in order to ensure consistency and determine the best ways to advance New York’s long-term commitment to promoting responsible gaming.

1. Task Force on Responsible Gaming

A.3477-A (Cymbrowitz)/ S. 1978-A (Addabbo); Veto Message 158

As the gaming industry continues to expand within New York State, the need for oversight and advancement of policies relating to compulsive gambling is more critical than ever. The bill would establish a task force to identify and recommend policies and procedures to promote responsible gaming. The task force will report to the Governor and the Legislature on how best to protect those participating in the gaming industry.

2. Role of the Gaming Inspector General

A. 7774 (Pretlow); Reported to Ways and Means

As Commercial Casinos were authorized in 2013, the need for an independent Inspector General to monitor gaming activity in the state was more necessary than ever. Since that time, the Inspector General has taken to oversee the various industry players, including Commercial Casinos, VLT facilities, and other gaming activity in the state. Clarification over the jurisdiction of the office of the Gaming Inspector General was needed as gaming continues to expand statewide. This bill would provide that clarification, along with establishing additional independent responsibilities of the office. This bill would also require the office to make annual reports to the Legislature and Governor on actions taken throughout the year.

III. Public Hearing on Problem Gambling

On December 18, 2019, the Assembly Committees on Racing and Wagering and Alcoholism and Drug Abuse held a hearing to examine the issue of problem gambling. New York State's gaming industry has grown significantly since its inception, and will continue to expand in the future, as various new forms of gaming are introduced. Because of this, it is more important than ever to support current responsible gaming practices, and to look at adopting new initiatives for the future. The Committees heard from the Office of Addiction Supports and Services (OASAS), along with the New York Council on Problem Gambling, both of which provided valuable insight into the ways in which the state is currently, and can continue to be, proactive when it comes to protecting those who choose to participate in the gaming industry.

IV. STATE FISCAL YEAR 2019-2020 ENACTED BUDGET

The State Fiscal Year (SFY) 2019-2020 Enacted Budget, with an allotted \$408.51 million all funds appropriation for the Gaming Commission, made several significant contributions to New York State's racing, wagering and gaming programs. Some of these contributions include:

- authorizing the Gaming Commission to waive pre-employment restrictions for a prospective employee whose position is based primarily on racetrack grounds;
- extending the use of up to \$2 million from the unpaid purse cushion account through 2020 for the New York Jockey Injury Compensation Fund;
- authorizing the Gaming Commission to nominate designees to the Thoroughbred Breeding and Development Fund who have experience or knowledge of the thoroughbred horse industry;
- reconfiguring the vendor fee, capital awards distribution, marketable allowance, and additional commission structures for Video Lottery Gaming Facilities;
- extending the Advisory Committee on Equine Drug Testing until December 1st, 2019, and allowing the equine testing lab to be located at any qualified state college or land grant university within the state, rather than at a specified state school;
- extending the current pari-mutuel tax rates and provisions related to the simulcasting of out-of-state thoroughbred and harness races for one year; and
- providing regional Off-Track Betting Facilities' Board of Directors with statutorily prescribed oversight and financial planning responsibilities.

The SFY 2019-2020 Enacted Budget made various changes to current law regarding Commercial Casinos. A cap on the percentage of free play credits offered to casino patrons was established, at a rate of 19% until 2023, and then lowered to 15% thereafter, in order to match the levels of free play authorized for Video Lottery Gaming Facilities. As gaming continues to expand throughout the state, parity between facilities in the industry is imperative. Along with restrictions on free play credits, a demonstration project was also authorized for Rivers Casino in Schenectady County, allowing for partnerships between the horse racing industry and commercial casinos.

The SFY 2019-2020 Enacted Budget also updated the New York State Lottery system in order to ensure that the Lottery provide the highest level of contribution to education thus far. Required payment levels to education from lottery games were codified and maintained, while the percentage of total sales directed to education from various Instant Cash games was increased. An annual cap on the Lottery Lapsed Prize account was established, in order to provide increased excess funds to education, ensuring that millions more will be diverted to education initiatives.

V. OUTLOOK FOR 2020

During the 2020 Legislative Session, the Assembly Standing Committee on Racing and Wagering will continue to make progress towards developing and enacting legislation that strengthens all facets of New York State's racing, wagering, and gaming infrastructure. As the Committee strives to find new and improved ways to increase tax revenues from racing and gaming operations in the State, there is a continued need for oversight in order to protect those participating in the racing, wagering, and gaming industries. By achieving these goals, we can help ensure that New York State's gaming industry remains viable for years to come.

The Committee will continue to remain steadfast in supporting legislation aimed to strengthen New York State's racing industry. It is important to protect not only racetrack employees, jockeys, and exercise riders, but also the thousands of Standardbred and Thoroughbred horses throughout the State. In 2020, equine safety will continue to be a priority for the Committee, along with addressing the ever present need for adequate aftercare practices and procedures for the industry's retired racehorse population. Continuing to maintain a thriving horse racing industry is another priority of the Committee and in 2020, the Committee will continue to act to ensure that this industry flourishes.

Casino gaming in New York State has grown quickly since its addition to the Constitution in 2013. In 2020, the Committee will continue to address the challenges facing these facilities in an effort to provide the four upstate Commercial Casinos with eliminating operating difficulties, including updating the licensing process for casino employees. The Committee is committed to supporting all of the gaming industry's members, from table game dealers, to the casinos which employ them. As brick and mortar sports wagering expands throughout upstate New York this year, with the opening of the first sports wagering lounge at Rivers Casino this summer, the Committee will continue to monitor the impacts of expanding the wagering industry in the State.

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

APPENDIX A

2019 Summary Sheet

**Summary of Action on All Bills Referred to the
New York State Assembly Standing Committee on Racing and Wagering**

Final Action	Assembly Bills	Senate Bills	Total Bills
Bills Reported With or Without Amendment			
To Floor; Not Returning to Committee (Favorable)	2	0	2
To Ways and Means	5	0	5
To Codes	3	0	3
To Rules	0	0	0
To Judiciary	0	0	0
Total	10	0	10
Bills Having Committee Reference Changed			
Total	1	0	1
Senate Bills Substituted or Recalled			
Substituted		0	0
Recalled		0	0
Total		0	0
Bills Defeated in Committee	0	0	0
Bills Held for Consideration with a Roll-Call Vote	0	0	0
Bills Never Reported, Died in Committee	63	9	72
Bills Having Enacting Clauses Stricken	2	0	2
Motions to Discharge Lost	0	0	0
Total Bills in Committee	74	8	82
Total Number of Committee Meetings Held	4		

APPENDIX B

Chapters of 2019

CHAPTER	ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
68	A. 7773 (Buttenschon)	S. 6270 (Addabbo)	Extends the authorization for Vernon Downs video lottery gaming facility to redistribute existing revenue from administrative and capital awards funds for the use of operating expenses, for two years.
122	A. 4734 (Pretlow)	S. 2315 (Addabbo)	Extends the authorization for the New York Thoroughbred Horsemen's Association to receive an additional 1% of purses collected from race meetings held at tracks operated by the New York Racing Association, Inc., for one year.
343	A. 6184 (Pretlow)	S. 2314 (Addabbo)	Extends payments to the New York State Thoroughbred Breeding and Development Fund for an additional one year.
470	A. 6212A (Rosenthal D)	S. 3917A (Stavisky)	Expands the number of bingo games per year authorized to be held by charitable organizations, and would clarify the various types of authorized organizations
644	A. 8167 (Pretlow)	S. 6271 (Addabbo)	Allows the Gaming Commission to have oversight over all State Liquor Licenses for Class III Indian Casinos, as long as participating tribes waive their sovereignty for this purpose.
688	A. 2317B (Solages)	S. 5481B (Kaplan)	Creates a local advisory board for Belmont racetrack, similar to those in place for Saratoga and Aqueduct.

APPENDIX C

Bills Vetoed in 2019

VETO MEMO	ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
158	A. 3477A (Cymbrowitz)	S.1978A (Addabbo)	Would create the Legislative Task Force on Responsible Gaming to identify and recommend policies and programs that promote responsible gaming and reduce the risks and consequences associated with compulsive gaming.
152	A. 4623 (Pretlow)	S.4587 (Sanders)	Would require bell jar tickets authorized to be sold in the state of New York to be marked with a legend approved by the NYS Gaming Commission.

APPENDIX D

Additional Bills Reported in 2019

ASSEMBLY BILL (SPONSOR)	LAST ACTION	DESCRIPTION
A. 3535A (Pretlow)	Passed Senate	Would create a Commission on Retire Racehorses to study and establish a database reflecting the ownership of retired racehorses in the state of New York.
A. 6113C (Pretlow)	Passed Senate	Would authorize mobile sports wagering through licensed servers in New York State, and make changes to the current structure of brick and mortar sports wagering.
A. 7774 (Pretlow)	Reported to Ways and Means Committee	Would clarify the role of the Gaming Inspector General as one separate from the Gaming Commission, with oversight over all gaming activity in the state.