



NEW YORK STATE SENATOR

Eric Adams

## Racing, Gaming Wagering Committee Repeals Fee Increases

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| COMMITTEE: **RACING, GAMING AND WAGERING**

Racing and Wagering Legislation: S.2363

S.2363 repeals sections 22, 23, and 24 of chapter 115 of the laws of 2008 amending the Racing, Pari-Mutuel Wagering and Breeding Law relating to retention rates for facilities authorized to accept wagers on out-of-state tracks.

This bill repeals a 1% takeout increase slated to go into effect on March 15, 2009. Said increase was included in the NYC OTB bailout bill last year, but since enacted, there has been industry-wide agreement that such an increase would have a deleterious effect on the racing industry within New York and not achieve the intended mission of the law.

The repealed sections had required New York tracks and OTBs taking wagers on simulcasts from out-of-state tracks to withhold an additional 1% over the host tracks' normal take out rate. The increased 1% takeout would have gone to the entity taking the wager, either OTB or NYRA, both of whom oppose this increased takeout. As an example, if Santa Anita's normal takeout for a \$2 win bet is 15%, a NY entity offering simulcast wagers on Santa Anita would have withheld 16% on that wager instead of 15%.

The takeout funds the following areas:

- Purse
- Breeders Fund
- State Pari-mutuel Tax
- Entity taking the wager (OTB or NYRA)

The increased 1% on the out-of-state simulcast wager did not affect the amount the state collects in pari-mutuel tax because the pari-mutuel tax, while in part funded by takeout, is based on the amount and type of wager, not the amount of takeout withheld. As a result, the State would not have derived any additional pari-mutuel tax revenue from the increased take out rate.

Many out-of-state jurisdictions would not permit their tracks to amend their simulcast agreements with NY pari-mutuel entities in order to permit NY to collect a higher take out for the following reasons:

- Competitive: their product would be costlier for NY-based customers than NY's domestic racing product
- Public Policy: Regulators in affected jurisdictions would not place themselves in a subservient position by ceding control to NY on takeout

New York tracks and OTBs would not be permitted by the out-of-state tracks to keep the full 1% increase. Citing the simulcast contract, out-of-state tracks would require a share for themselves of the increased percentage of takeout. These out-of state facilities would not stand idly by and permit NY tracks and OTBs to receive a windfall at their expense. If other jurisdictions retaliated and increased the takeout on out-of-state simulcast wagers in their own states, NYRA and New York horsemen, breeders, and OTBs would all be disadvantaged.

If New York began withholding at a separate rate, the effect would have been twofold: NY patrons betting on out-of-state simulcast races would receive less money for a winning wager than non-NY bettors wagering on the same race.

The entire out-of-state pool available to be paid out to winning bettors would be reduced because NY would not have contributed the full amount to the pool itself as a result of the additional 1% take out. Because NY wagering activity is such a significant portion of any pool at any major racetrack in the US, this provision would have significantly and negatively skewed the pools of those major out-of-state racetracks for both NY and out-of-state bettors.