

Memorandum in Support

COMMITTEE ON ANIMALS AND THE LAW

Animals #17

May 21, 2018

S. 2473-A
A. 4220-A

By: Senator LaValle
By: M. of A. Glick
Senate Committee: Finance
Assembly Committee: Ways and Means
Effective Date: One hundred twentieth day
after it shall have become a law

AN ACT to amend the state finance law, in relation to the creation of the responsible retirement of racehorses fund; to amend the racing, pari-mutuel wagering and breeding law, in relation to a horse registration fee; and to amend the agriculture and markets law, in relation to the responsible retirement of racehorses.

LAW & SECTION REFERRED TO: New Section 95-i of the State Finance Law; new subdivision 6 of Section 330 of the Racing, Pari-mutuel Wagering and Breeding Law; and new Section 381 of the Agriculture and Markets Law.

THE COMMITTEE ON ANIMALS AND THE LAW **SUPPORTS THIS LEGISLATION**

This bill would amend the State Finance Law by adding a new Section 95-i establishing a dedicated fund known as the “Responsible Retirement of Racehorses Fund.” The Fund would be expended for the purpose of supporting responsible horse retirement for thoroughbreds and standardbreds by apportioning certain revenues held by the state and by New York State racing and racehorse programs, as set forth in Section one of the bill, described below, to eligible horse retirement and rescue programs.

The fund would be financed in three ways. Section one of the legislation, which would add a new § 95-i (2)(b) to the State Finance Law, provides funding from: (i) one-half of one percent of the commissions from video lottery gaming revenue from NYS tracks and Resorts World Casino New York City, and any video lottery gaming added after the enactment of this bill; (ii) one-half of one percent of all purses at NYS racetracks; (iii) five percent of the New York State Thoroughbred Breeding and Development Fund annual revenue; and (iv) ten percent of fees generated by the Agriculture and NYS Horse Breeding Development Fund created by section three hundred thirty of the Racing, Pari-Mutuel Wagering and Breeding Law.

A second source of funding is provided in section two of the bill, which would amend Section 330 of the Racing, Pari-Mutuel Wagering and Breeding Law by adding a new Subdivision 6, providing for the establishment of a horse registration fee for each horse registered under provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, with the proceeds of such fee to be deposited into the fund.

A third funding provision, established in the new § 95-i (2)(a) of the State Finance Law, enables the Fund to receive grants, gifts or bequests.

The bill also would amend the Agriculture and Markets Law by adding a new Section 381 to provide criteria for determining the eligibility of qualified retirement and rescue programs and facilities; eligibility would be determined by the Commissioner of Agriculture and Markets based upon the economic sustainability of the rescue; the rescue's long-term stability; the rescue's demonstration of an ongoing commitment to the proper care of horses; and other such factors as the commissioner deems appropriate. Such programs must be non-profit organizations that are tax-exempt.

The Fund that would be established by the bill specifically includes both thoroughbreds and standardbreds in New York State, and includes horses bred to race that have never competed in a race. Proposed §381 (2) states: “[F]or purposes of this section the term racehorse shall include a horse whose racing career has concluded or a horse that was bred to race but has never competed in a race.”

This bill is based on the recommendations of the New York State Task Force on Retired Racehorses, which was created by the NYS Legislature in 2005 to identify uses for retired racehorses that would be productive and beneficial to both horses and humans. The Task Force report, released in December 2011, provided a number of recommendations intended to transition racehorses from the racetrack to a second career. The Task Force argued strongly that owners and trainers must consider a horse's well-being for their entire lifespan, not just the years of their racing career. Retired racehorses have value as future sport and riding horses, and even the injured ones have value, such as being therapy horses.

The first two streams of funding for the Responsible Retirement of Racehorses Fund that would be implemented by this bill are among the sources of funding explicitly recommended in the Task Force report. These sources of funding are the same sources of funding that support the New York Thoroughbred Breeding and Development Fund. The third funding stream (grants, gifts or bequests) was assumed by the Task Force to occur but not necessarily directed to the Responsible Retirement of Racehorses Fund.

Providing for retired racehorses is one way of providing for the humane treatment of horses bred for racing when their racing career is over. The sponsor's Memorandum in Support states that too many racehorses are bred each year simply because they are disposable once their racing career is done. The fund established by the bill provides for responsible retirement of racehorses as an alternative to slaughter.

This bill addresses a problem caused by the successful implementation of legislation enacted in the 1970s that established the New York Thoroughbred Breeding and Development Fund. Creation of the Thoroughbred Breeding and Development Fund was justified as legislation that would preserve open land in New York and enhance upstate agricultural employment and economic development. However, it has not necessarily achieved that goal; many of the dollars currently awarded by the Thoroughbred Breeding and Development Fund in the form of purse incentives and year-end breeding awards for New York-bred horses go into the pockets of racehorse owners and syndicates outside New York, and to non-farmers living in New York's cities and suburbs. At the same time, the incentives to breed horses for racing on New York farms has had unintended consequences that do not help the racing industry. The very generous purse incentives and year-end awards to NY-Bred horses has produced an excess number of uncompetitive never-raced horses and horses of mediocre bloodlines that are retired early,

creating an ever-growing number of horses that do not race and may even be unfit for breeding. When there is no use for them, these horses are disposed of by slaughter in Canada and Mexico. This practice is both a cruel ending for the horses and unsafe for humans who consume the horse meat.

As the bill sponsor's Memorandum in Support notes, horses in the United States are not bred for human consumption but for sporting and recreational activities, and this differentiates them from food production animals such as pigs and cattle. Horses are routinely given drugs that are banned in animals raised for food, including phenylbutazone, an NSAID which has the potential for severe bone marrow toxicity in humans; furacin (notrofurazone), a commonly used equine ointment which is a known carcinogen; as well as steroids, deworming agents, tranquilizing substances, sedatives and performance-enhancing drugs. Horses are not regulated like animals in the food chain, and are not tested to ensure that they do not have toxins in their system prior to slaughter. By providing an alternative to the slaughter of horses, the Responsible Racehorse Retirement Fund created by this legislation would provide an alternative to slaughter for human consumption, a practice that may pose severe risks to human health.

This bill, by establishing a Responsible Retired Racehorse Fund, would provide a necessary first step toward addressing the humane and responsible treatment of retired racehorses and horses bred to race. Key to the success of the Fund established by this bill is the revenue stream provided for the Fund, which depends on monies collected by the state from other racing and wagering activities. Private efforts to establish a retirement fund by organizations such as the Kentucky-based Thoroughbred Aftercare Alliance Foundation, or the New York-based Thoroughbred Retirement Foundation or ReRun, all of which are supported by the racing and breeding industry, rely upon individual donations and remain vastly underfunded. The Retired Racehorse Task Force realized early in its deliberations that charitable contributions were insufficient to care for New York's retired racehorses. Consistent with the recommendations of the Task Force, the bill's provisions for funding from a percentage of racing and wagering revenues, Video Lottery Terminals, a small part of the Thoroughbred Breeding and Development Fund budget and of the fees from the Horse Breeding Development Fund, would appropriately and sustainably spur economic growth and preserve open land, while providing for the humane, responsible treatment of one of New York's treasured, long-revered assets, its thoroughbred and standardbred racehorses.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.