



RCI BULLETIN

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More Court Scrutiny For NY Out-Of-Competition Testing Rule

On Dec. 30, 2009, The New York State Racing and Wagering Board (NYSRWB, or Board) announced in a press release that, as of two days later (Jan. 1), the Board would be authorized to conduct unannounced drug testing of horses “slated” to compete at New York harness or thoroughbred tracks even when they are stabled away from the tracks.

Based on, but not exactly like, rules already in existence in New Jersey and Delaware, the New York rule has a few unusual provisions, and that has already prompted a lawsuit and a Temporary Restraining Order to stop implementation of the new rule. Standardbred owner Steve Kallas, also a New York City attorney, reviews the rule and the legal scrutiny it is presently receiving.

The recently crafted New York rule on out-of-competition testing, set forth at 9 NYCRR 4120.17, attempt to allow a state racing judge or Board member to have horses stabled away from racetracks tested for various illegal substances. The “testing” area includes a radius of 100 miles from any New York harness or thoroughbred track. In addition, the Board can have tested any horse that is “anticipated” to be racing at a New York track within the next 180 days. Also, the penalties are very severe, with a minimum 10-year suspension for a violation of the drug-testing policies.

But as was reported last week, there has already been a legal challenge. On Thursday, Jan. 7, lawyers on behalf of petitioners Mark Ford, Richard Banca, John Brennan, George Casale and the Standardbred Owners Association of New York Inc. (SOA) appeared before New York State Supreme Court Justice Eileen Rakower in Manhattan to challenge the implementation of the new rules. Justice Rakower signed an Order to Show Cause and a Temporary Restraining Order which bars the Board from immediate drug testing of horses under the new rules.

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Lawyers for the Board requested that the case be moved to Schenectady, NY, where the main office of the Board is located. That issue will be decided before Justice Rakower on Tuesday, January 12, in New York City.

So what did the petitioners—Ford, Banca, Brennan, Casale and the SOA--claim to be the problems with the new rule? The petitioners, represented by Andrew Turro, of the firm Meyer, Suozzi, English and Klein, submitted papers to the court setting forth a number of issues with respect to the new rules. The major ones are highlighted below:

- 1) Unlike in New Jersey, private horse farms are not licensed in New York. Under the new rule, the Board or its representative can enter a private farm in New York without probable cause or a search warrant and test a horse who may or may not actually race at a New York race track;
- 2) The 100-mile radius rule--Under the new rule, the Board or its representative may test a horse stabled within a 100-mile radius of any New York racetrack. This, of course, would encompass other states (such as New Jersey or Connecticut, for example) and even another country (Canada, as pointed out by Justice Rakower). If outside the state, the trainer and owner must ship the horse to the New York racetrack at the trainer/owner's expense (an expensive thing in today's reality).
- 3) Unlike rules in other states, there is no requirement in the rule for split-samples, which gives the trainer/owner the right to its own sample from the horse which can be tested by an independent lab.
- 4) The penalty for a first offense is a 10-year suspension.
- 5) The rule states that even non-licensed (by New York State) people can come under the auspices of this rule.

At the end of the Jan. 7 appearance before Justice Rakower, she stated that the parties would appear before her on Tuesday, Jan. 12. She found enough evidence to sign the Temporary Restraining Order, but also stated that, preliminarily, she thought that the case should be heard in Schenectady.

Justice Rakower stated, "So I do think that the rules are overly broad and that a balance of the equities requires me to stay the enforcement of these rules pending an ultimate decision by the Court in Schenectady."

Thus, preliminarily, Justice Rakower believes that petitioners have a likelihood of success on the merits of their case, that they would suffer irreparable injury if the law was allowed to be enforced as is and, balancing all of the equities of the case, that the Board should be stopped from enforcing the law as is. It also seems, however, that, absent a change of heart, she will transfer this case to New York State Supreme Court in Schenectady.

There are other issues with the new rule that will have to be dealt with at some point. For example, if the rule is upheld and the Board orders a trainer/owner to produce a horse for testing, if the trainer/owner doesn't comply, the horse shall be ineligible to participate in racing for 120 days, absent "acceptable mitigating circumstances."

If, in the case where a horse is not produced for testing, an owner can't race his horse for four months, that's tough. He also can't transfer the horse to another trainer (presumably). But can he sell the horse to a bona fide new owner? Can he "sell" the horse to a friend?

By the way, what happens if a shipper is shipping a horse (pursuant to Board request) from out-of-state and the truck breaks down? Or the trainer says the owner already pulled the horse from his barn and he's been shipped to a trainer at a farm outside the 100-mile radius? Are either or both of these "acceptable mitigating circumstances?" Right now, we don't know.

Part of the new rule states that "horses to be tested shall be selected from among those anticipated to compete at New York tracks within 180 days of the date of testing or demand for testing." How does a judge decide that a horse is "anticipated" to compete at a New York track? If the horse had raced in the past 30 or 60 days (backward-looking and less than 180 days), that might have a better chance to pass muster.

Suppose an owner buys a foreign horse and brings him within 100 miles of a New York racetrack (by the way, is that 100 miles as the crow flies or by roads and highways?). Suppose his trainer has a "bad reputation." Suppose the owner says, "I don't anticipate racing him in New York." Can he be tested?

With respect to the (minimum) 10-year suspension for the first violation, which includes the word "shall" rather than "may," the only way you can not get 10 years with a positive is to show "extraordinary mitigating circumstances." What would they be? Does the 100-mile rule mean that someone (or more than one) will build a training track 105 miles from a New York racetrack?

So what is the future of this rule in New York?

You have to give credit to NYSRWB for attempting to do something about blood doping in horse racing. However, some of the new provisions may have to be tweaked, changed or even eliminated to protect the rights of all horsemen and horsewomen. Nobody wants to see an innocent trainer/owner suspended for 10 years for a first violation, and nobody wants to see someone who truly violated the rule escape because the rule had been poorly written.

While the legal axiom "better to let 10 guilty men go free than convict one innocent man" should be given some consideration here, something must be done to stop the prevalence of illegal drugs in horses engaged in racing in New York State and all other states that conduct racing. As we have seen in other sports and in our own, it's tough to catch the bad guys. So here's hoping that some form of the new rule and other rules already in place in New York and other states will catch the bad guys and not hurt the good guys and unsuspecting owners.

We'll see what happens. *Source: Harness Racing.com*

New Surface For Santa Anita Later This Year

Santa Anita Park president Ron Charles confirmed Jan. 19 that the California track will replace its synthetic surface later this year after completing the current race meet.

"We will replace it following the spring/summer meeting at Hollywood Park," Charles said. Santa Anita acts as an off-site training facility during Hollywood Park's meet.

Charles declined to say what type of surface Santa Anita will put in its place. Many people have speculated that Santa Anita will return to a traditional dirt surface, though Golden Gate Fields, like Santa Anita owned by Magna Entertainment Corp., has a Tapeta synthetic surface.

Charles said he hoped to have an announcement soon on the decision.

The current Santa Anita surface is not draining properly, which led to racing being canceled Jan. 18 when heavy rain hit Southern California. More rain is expected this week, which may force Santa Anita to cancel more cards. Racing was not scheduled for Jan. 19 or 20.

Charles said the decision to replace the surface was made some time ago, and that the current weather did not cause the decision. The wrong sand was used when Cushion Track was initially installed in the summer of 2007, Charles said, and the track failed to drain during the 2007-08 meet, leading to the cancellation of 11 days of racing.

Santa Anita replaced the Cushion Track with a Pro-Ride surface, though Charles said workers never could get rid of all the sand. Santa Anita did not lose any cards during the 2008-09 season.

“We were very fortunate that Pro-Ride could come in and give us a usable track,” Charles said. “We are grateful for how hard they tried, but they agree that we have a surface that will always have problems because of the sand. That in essence is why it won’t drain.”

No matter what surface Santa Anita decides to put in, Charles said it will be completely redone so the sand doesn't continue to plague the track. Charles said maintenance costs have also been significant because of dealing with the sand, though he emphasized that isn't the reason for the change.

“We want to do the right thing,” Charles said.

California’s major tracks began installing synthetic surfaces in 2006 following a California Horse Racing Board mandate. That mandate is expected to be waived should any track decide to return to a dirt surface, though no track has as yet asked for a waiver. *Source: Bloodhorse*

Thoroughbred Owner Backs Airlift For Surgical Professionals To Haiti

Earle Mack, a major Thoroughbred owner, philanthropist and former diplomat, has bankrolled an airlift of U.S. surgeons and surgical assistants to earthquake devastated Haiti and he is actively seeking to send more, according to a report on www.bloodhorse.com.

Mack chartered a plane and left for Haiti on Jan. 17 with five surgeons, two surgical assistants and 1,000 pounds of antibiotics. A second flight, funded entirely by Mack, is leaving the U.S. on Jan. 20 and more flights will follow as needed, he says. Mack will ensure that all are returned to the U.S. as well.

Mack is not seeking funds to help in the effort, he is seeking volunteer surgeons, especially trauma surgeons, and antibiotics. Anyone who can assist Mack in this effort is asked to contact him at mackfinland@aol.com. *Source: Harness Racing Communications, a division of the USTA*

Sale Of Laurel, Pimlico Racetracks Put Off Again, Delay Linked To Fate Of Slots At Arundel Mills

The sale of two Maryland horse-racing tracks by bankrupt owner Magna Entertainment Corp. has been delayed for a second time, giving the company and bidders time to gain a better grasp on whether voters will be able to decide the fate of slots at Arundel Mills mall.

The auction of Laurel Park, Pimlico Race Course and the Preakness Triple Crown race is now scheduled Feb. 10, while a hearing to approve the sale has been rescheduled for Feb. 26.

Magna attorney Brian Rosen did not give a reason for the three-week delay when reached by phone Tuesday. "We thought it was the right time," he said.

But those following the slots debate said the later date would give Magna an opportunity to gauge whether opponents of slots at Arundel Mills will be able to collect enough signatures to put the issue to referendum in November. Opponents have until Feb. 5 to gather half of the 18,000 required signatures.

Uncertainty over slots at the Hanover mall might raise the stakes - and the bids - for the tracks by bettering the chances of slots at Laurel Park. There is only one slots license in Anne Arundel County, and it is owned by Baltimore developer David Cordish, who is building the slots casino at Arundel Mills. But if the mall project is rejected by voters, the state could reopen bidding for that license.

"If they get enough signatures, they have the possibility there won't be approval at Arundel Mills, and it may be moved to Laurel, which may make [the track] worth more," said Jeff Seder, managing director of Blow Horn Equity, LLC, a Pennsylvania horse breeder and racing consultant backed by private equity that has bid on the Maryland tracks.

Some opponents of the mall project say Laurel Park is a better choice because slots could boost business at the tracks.

"If you absolutely knew there would be no slots in Laurel Park, you may bid \$40 million," said John Franzone, chairman of the Maryland Racing Commission, who doesn't want slots at the mall. "After they have got 9,500 votes, you might bid \$50 million."

The Anne Arundel County Board of Elections certified a petition in late December allowing anti-slots groups to begin gathering the necessary signatures for a referendum on whether to allow the gambling devices at Arundel Mills. A plan by Cordish for a 4,750-machine slot facility planned for a parking lot near the mall's food court was approved by the county council last month.

Cordish, who has bid on the racetracks, reiterated Tuesday in an e-mail that he thinks "the petition drive will fail.

"The reality of the situation is Magna will get lower bids," he said.

Six bidders have expressed interest in the tracks, including Cordish, Blow Horn Equity, Penn National Gaming Inc. and Joseph A. De Francis and his family, the former owners of the Maryland tracks.

"I can't speculate on their motives, but I have no problem with the delay," De Francis said about the new auction date. "It's not that big a difference in time." *Source: Baltimoresun.com*

Louisville Company To Distribute Dubai Races For Simulcasting

Louisville-based AmWest Entertainment has been chosen to distribute the Dubai International Racing Carnival and the Dubai World Cup to simulcasting outlets in North and South America, according to a company news release.

AmWest operates account wagering through Oregon and has three off-track betting parlors in South Dakota.

"The Dubai World Cup, the Dubai International Racing Carnival and the grand opening of Meydan (Racecourse) should be showcased in a brilliant form, and that's our goal," AmWest chief executive Nelson Clemmens said. "This spectacular international racing stage will be a tremendous magnet for interest in the sport and will undoubtedly create excitement in racing around the world."

The racing carnival, with more than \$36 million in purses, begins Jan. 28 with the grand opening of Meydan Racecourse, a new track in Dubai. The Dubai World Cup, run on the richest day in Thoroughbred racing, hopes to attract Breeders' Cup Classic champion Zenyatta. Ten days of racing from Dubai is scheduled to conclude with the Dubai World Cup program March 27. *Source: Lexington Herald*

Delaware Announces 2010 Live Racing Dates

Delaware Park will offer 116 days of Thoroughbred racing in 2010, with the meet starting May 1 and concluding Nov. 6.

The schedule for Delaware Park's 73rd season of racing was recently approved by the Delaware Thoroughbred Racing Commission.

Racing will be held Saturdays, Mondays, Tuesdays, and Wednesdays for most of the meet. Live racing will be added Thursdays July 15-Aug. 26.

Delaware Park's premier races, the Delaware Oaks (gr. II) and the Delaware Handicap (gr. II), will be held July 10 and July 17, respectively. In recent years, the races were on the same weekend as part of a festival, but the track has no Sunday racing scheduled for this year. *Source: Bloodhorse*

Could Georgia Be The 39th State To Legalize Betting On Horse Racing?

Will Georgia voters get to decide this fall whether our state legalizes betting on horse racing?

House Resolution 1177, introduced Tuesday by Rep. Harry Geisinger, R-Roswell, would set up a referendum in November's general election to expand gambling beyond our state lottery to include horse racing.

Before voters get to decide, the resolution needs a two-thirds vote in both the House and Senate in order to get on the ballot. Gov. Sonny Perdue, who has said he opposes betting on horse racing, would not have to sign the resolution.

The legislation is being offered as a way to boost job creation across the state. Already, 38 states have legal parimutuel betting on horse racing, creating a combined annual economic impact of \$39 billion, said a report from Morris News Service.

Opponents already are lining up against the measure. Sadie Fields of the Georgia Christian Alliance told Morris News, "We will oppose any bill that expands gambling in Georgia." That opposition is expected.

We found it interesting that Geisinger already has 50 of his legislative colleagues from both political parties signed on as co-sponsors of his resolution.

Does this resolution have a chance of passing, and will Georgia voters get to decide on parimutuel betting at the ballot box in November?

Our take is this: New sources of revenue for our state during these economic times are attractive, but we do not sense there's enough support in the House and Senate to get a two-thirds vote to expand gambling. We could be wrong. We would not oppose the issue being decided by Georgia voters at the ballot box in November when we will have a huge voter turnout because of the statewide race for governor. *Source: Times-Herald*

Derby Museum To Reopen In April After \$5.5 Million Renovation

The Kentucky Derby Museum, closed since August when it was ravaged by flooding, will reopen next to Churchill Downs on April 18 after undergoing a \$5.5 million renovation.

The museum will feature nearly all new exhibits, many of them interactive, Museum Executive Director Lynn Ashton said Wednesday. She said it will be the next best thing to going to the Derby itself.

Visitors will be able to climb aboard a racehorse, take home a recipe of a traditional Kentucky Derby dish, test their Kentucky Derby IQ, learn how to read a thoroughbred-sales catalog, attempt to call a horse race, or put down a bet and see how it plays out.

Before the Aug. 4 flood the museum averaged about 215,000 visitors a year. It opened in 1985 and will celebrate its 25th anniversary this year.

The museum plans a number of activities when it reopens the Sunday after Thunder Over Louisville, including a free family festival. The basic adult admission price will remain \$12 after the reopening.

The museum had been planning a renovation before the flood but the flooding accelerated the redesign, officials said.

Museum spokeswoman Wendy Treinen said only one exhibit, a tribute to farriers, who shoe horses, will remain untouched. An overhead 360-degree video shown in the Great Hall, "The Greatest Race," will not be changed but will be shown on a new screen.

Officials said the redesign was based on research that included focus groups and interviews with about 250 people, including community leaders and representatives of the horse industry.

Gallagher & Associates, whose main office is in Silver Spring, Md., is being paid about \$750,000 to design the exhibits, Ashton said. Gallagher had done previous work for the Derby Museum and has designed exhibits for the Rock and Roll **Hall of Fame**, the Grammy Museum and numerous other history and sports institutions. Local help is being provided by the design firm of Lockett & Farley Architects.

The flood caused more than \$4 million in damage, including the loss of about 2,500 items from the collection such as photos, clippings, racing programs, forms and other records. Several dozen items, including paintings and trophies, have been sent to a Chicago curator for restoration. *Source: Courier Journal*

Another Run At Helping Neb. Horse Racing Industry

A Nebraska lawmaker is making another run at helping the state's ailing horse-racing industry.

On Friday, state Sen. Russ Karpisek of Wilber introduced a proposed constitutional amendment to the Legislature that would allow betting on televised, simulcast horse races at facilities approved at the county or city level.

Currently, simulcast betting is only allowed at horse tracks like Fonner Park in Grand Island.

Karpisek says that money generated from horse-race bets placed outside the state's tracks would be used to help boost purses for races in Nebraska.

Decreased attendance at Nebraska horse races has led some to say the longtime sport is on the brink of disaster.

Last year, a bill from Karpisek to allow slot machines at horse tracks failed. *Source: AP/New York Times*

A Eulogy To New York Racing?

Richard Nixon was in residence at the White House and Secretariat was a yearling when the New York City Off-Track Betting Corporation and five other similar public benefit operations opened for business and forever changed the character and structure of racing.

Almost four decades later, with the world's largest legal bookmaker \$228 million in debt, \$42 million of which is owed to the state's racetracks, New York Thoroughbred Breeders Executive Director Jeff Cannizzo carried a four-foot tall mock headstone representing the state's Thoroughbred breeding and racing industries into a Manhattan hearing last week, the point of which was to underscore his testimony during a hearing at which the corporation's leader proposed to reduce -- or perhaps eliminate -- payments to racetracks and breeders, a move that would sound the death knell for racing in New York. Not insignificantly, New York City OTB is the largest of "public benefit" corporations operating in the state and despite its situation -- an off-site pari-mutuel wagering monopoly in one of the world's most densely populated metropolises -- is the only one that is bankrupt. The others, none of which is particularly beneficial to the host industry to which they are parasitically attached at the jugular, seem to operate profitably. But NYC OTB has never been more than a bloated jobs program benefitting friends, relatives and others connected to whatever political party is in power, a study in patronage and redundancy if not outright corruption. Michael Bloomberg, now in his third mayoral term, served most of two before unloading the albatross on a bankrupt, gridlocked state government, which rushed recklessly to the rescue under the guise of saving jobs. The political appointee currently at the helm of the state-owned NYC OTB, Meyer Frucher, proposes that the state legislature change the system of statutory payments to racetracks and breeders as well as state and local government and claims that distributions should be based on net income instead of gross income. This ignores the fact that there is no net income and no guarantee that there ever will be. Frucher's argument is tantamount to the owner of any failing business -- an automobile dealer, for instance -- claiming that there would surely be profit if not for the requirement that he pay for the cars. Frucher, whose friends call him Sandy, told members of the State Assembly Committee of Racing, Wagering and Gaming: "The most critical legislative changes required to secure NYC OTB's viability is the modification to the legislative distribution scheme. NYC OTB will pay for the product and services it receives, at fair market value, as part of its operating structure. All other payments to the industry will be from the residual." NYC OTB did not find its way to this sorry period in its generously besmirched history without much of this sort of logic. Frucher's proposal has long been a point belabored by his predecessors appointed by a succession of New York

City mayors. They, like Frucher, unsullied by reality, cling grudgingly to an ignorance of the racing's industry's structure and business model. Were this concept actually adopted, there would be, in fact, no racing and therefore no product and no OTB. "This accounting trick will dramatically reduce revenues to those who are at the heart and soul of thoroughbred racing, remove OTB accountability, and create a death spiral for an industry that employs tens of thousands of New Yorkers," the tombstone-carrying Cannizzo told the assembled politicians. "If OTB distributions to thoroughbred breeders disappear, on top of the current financial distress breeders are suffering, the breeding industry will be decimated, putting the racing industry in New York out of business. Without the product -- the horses -- there will be no race to hold, no ticket to wager, and no handle to disburse." With NYC OTB having paid no one in recent times at the expense of both breeders and racetracks and exacerbating the current overall economic malaise, three of New York's largest commercial breeding farms have closed in the past year, according to Cannizzo, reducing by 400 the population of broodmares. Many of the state's breeders are sending mares to Pennsylvania, where the awards program, boosted by gaming revenues, is more than 36 percent higher than New York's, once the nation's most lucrative. "Most important," Cannizzo said, "the 2009 foal crop in New York was down 15 percent from the previous year and 21 percent from just five years ago," Cannizzo said. "This will have a proportionately and significantly negative impact not just on Thoroughbred racing, but on the economy of the State of New York." The importance of NYC OTB's fate and that of the racing and breeding businesses here goes far beyond the state's borders. Imagine the sport without Belmont Park and Saratoga, arguably the two most important racing venues in the United States. What Wall Street is to finance and Broadway to theater, New York is to American racing. Since its establishment, the model of off-track wagering in New York has endured as a blueprint for failure, replicated or imitated nowhere. It has successfully carries out its mandate to generate revenue for local government, most from a surcharge on winning wagers. It has slowly, almost blithely, bled the state's racetracks beyond the point of anemia and now serves notice that it thirsts for the last drop of blood. The New York Racing Association, which is owed \$14.7 million by NYC OTB, has filed an objection to its bankruptcy petition, charging that it was not filed in good faith, and is expected to propose a takeover. In what amounts to a race between the lesser of evils, NYRA wins by a pole. A takeover by a consortium of creditors merits consideration. Another form of privatization might be considered. Necessity is the mother of invention and it has become necessary to allow NYC OTB to die so that it can be reborn in another form. But, while hope is persistent, there is also the realization that the ultimate decision rests with the lawmakers of New York, a group typically incapable of reaching consensus on any issue beyond adjourning for lunch. *Source: ESPN News*

Drazin Named To N.J. Racing Commission

Longtime Thoroughbred owner and breeder Dennis Drazin was confirmed on Monday by the New Jersey Senate as a member of the state's racing commission. He reportedly is in line to become its chairman.

Drazin, a Fair Haven, New Jersey attorney who was general counsel for the New Jersey Thoroughbred Horsemen's Association before taking on the role of president five years ago, was nominated to the post last week by outgoing Gov. Jon S. Corzine. He is expected to replace chairman John Tucker, who resigned from the board late last year.

Drazin and the state racing commission have worked together on several major issues, including bringing the 2007 Breeders' Cup World Championships to Monmouth Park and key purse supplements from Atlantic City casino interests.

However, Drazin and the racing commission also have had tempestuous differences on several occasions.

In 2005, the racing commission's '02 lawsuit alleging that leaders of the New Jersey Thoroughbred Horsemen's Association misappropriated nearly \$1-million in funds on legal and lobbyist fees while cutting health care benefits to low-income stable employees was settled with no wrongdoing or admission of liability.

In 2004, the commission was denied by a Superior Court judge when it sought to limit horsemen's rights to retain legal counsel and pay fees for the services [such as legal fees and political contributions] in the future and asked the court to review Drazin's fees for his services between 1998 through November 2003.

In 2001, Drazin was awarded the Virgil "Buddy" Raines Award by the New Jersey Sports and Exposition Authority for meritorious service to New Jersey Thoroughbred racing. He continues to operate a New Jersey-based racing stable at the Monmouth Park and Meadowlands meetings. *Source: Thoroughbred Times*

Saratoga Plans To Expand Meet To 40 Days

The Saratoga meet will expand by four days in 2010 and "for the foreseeable future," the New York Racing Association announced Oct. 7.

The Spa, which wrapped up a successful 2009 season in early September, is adding dates as several racetracks this year have reduced their racing schedules for economic reasons.

"Going into this year's Saratoga meet, we predicted that wagering would decline approximately 5% from last year," NYRA president and chief executive officer Charles Hayward said in a statement. "We greatly exceeded those expectations. The expansion to four racing days was a measured decision that reflects the overwhelming demand for racing that we have from horsemen in Saratoga."

The 2010 meet will begin Friday, July 23, and conclude Labor Day, Sept. 6. NYRA officials said each racing program will feature a stakes. The NYRA board of directors must approve a recommendation to move the Coaching Club American Oaks (gr. I) from Belmont Park to opening weekend at Saratoga.

NYRA earlier reported a decline of 1.7% in all-sources pari-mutuel during this year's 36-day Saratoga meet. Nationally, handle in August was down 12.5%

Horsemen submitted a record 3,500 stall applications for 1,800 stalls this year. Field size, which heavily depends on the weather at Saratoga, was 8.38, up slightly from 8.13 in 2008. *Source: Bloodhorse*

NBC Sports Expands Kentucky Derby Prep Coverage

NBC Sports, which in recent years has broadcast only the Santa Anita Derby (G1) and Wood Memorial Stakes (G1) as part of its pre-Triple Crown coverage, will triple that coverage this year with three hour-long broadcasts featuring two prep races per show.

NBC will televise the major prep races five, four, and three weeks prior to the Kentucky Derby Presented by Yum! Brands (G1) on May 1 at Churchill Downs. NBC also broadcasts the BlackBerry Preakness Stakes (G1) two weeks later at Pimlico Race Course before the final jewel of the Triple Crown, the Belmont Stakes (G1), is broadcast on ABC.

NBC Sports will be live at Fair Grounds on March 27 to kick off its prep coverage with the Louisiana Derby (G2) as well as feature the Lane's End Stakes (G2) at Turfway Park. Those races will air on NBC-owned USA Network.

The action then moves to NBC on April 3 and April 10 for the four Grade 1 races in April for three-year-olds leading up to the Kentucky Derby. The April 3 telecast will feature NBC's usual coverage of the Santa Anita Derby and Wood Memorial, while the April 10 broadcast will include the Toyota Blue Grass Stakes (G1) at Keeneland Race Course and coverage of the Arkansas Derby (G1) from Oaklawn Park.

NBC said the coverage leading up to the Derby is in partnership with Churchill Downs Inc. and will include both racing and lifestyle elements in an attempt to build interest in not only the Kentucky Derby but also Thoroughbred racing. The TV contracts for all three races expire this year.

"This approach has been effective in bringing new fans to racing, and we hope to see similar success with the 'Road to the Kentucky Derby' series," Churchill President Robert L. Evans said. "The key difference is that we promote racing to both men and women by focusing on the fans' entire experience of racing, not just the race itself. This includes food, fashion, and celebrity."

An NBC release credits "the shared vision of Churchill Downs and NBC Sports' 'Big Event Strategy' " as leading to the 2009 Kentucky Derby being the most viewed Derby in two decades, with a 26% increase in viewers since the partners launched the strategy in '07. *Source: Thoroughbred Times*

NYRA To Cooperate With Comptroller

The New York Racing Association, as expected, backed down from its refusal to cooperate with a review of its finances by the state's chief fiscal watchdog.

State Comptroller Thomas DiNapoli last month issued subpoenas seeking the financial records after NYRA officials went to the media raising concerns about running out of money later this spring forcing it to possibly have to scuttle the Belmont Stakes. NYRA refused to cooperate, to the surprise of some NYRA board members, saying DiNapoli has no jurisdiction over its finances.

"In 2008, taxpayers paid for a second chance for NYRA," DiNapoli said in a statement today referring to last year's award of a 25-year franchise extension for NYRA that also included another large financial bailout.

"NYRA then turned around and thumbed its nose at those same taxpayers and refused to open its books to my auditors. It's our job to protect taxpayer dollars. Fortunately, NYRA had a change of heart in response to my subpoenas. New Yorkers have a right to know what NYRA's up to, and my audit will let them know."

NYRA officials have said part of their financial woes is the state's doing because the Paterson administration and state lawmakers have yet to seal a deal on the long-delayed Aqueduct casino project, which will provide operating aid help for NYRA in the form of revenue-sharing payments.

When DiNapoli issued his subpoena, NYRA unleashed a rhetorical slap against the fiscal watchdog, saying its books could be kept secret from him and that it is already one of the most "pervasively" regulated private companies in New York.

"Any suggestion that the taxpayers are placed at risk by the constitutional prohibition on comptroller's audits of NYRA is misleading," NYRA said at the time.

The DiNapoli subpoena is wide-ranging, seeking all documents pertaining to money provided to NYRA from the state in 2008 and 2009, as well as information on all its expenditures, including salaries and outside contracts.

In a three-paragraph letter on Jan. 12 to the comptroller's office, NYRA counsel Patrick Kehoe said NYRA now has "no objection" to the DiNapoli subpoena and that the racing group will cooperate. He did not elaborate.

NYRA officials were not immediately available for comment. *Source: Bloodhorse*

Settlement Reached In Magna Bankruptcy Case

Creditors of Magna Entertainment Corp. have apparently reached an agreement that will end the racetrack operating company's bankruptcy case.

According to a report by Bloomberg News, the settlement includes transfer of MEC assets, including three racetracks, to MI Developments, which is controlled by MEC chairman Frank Stronach. Bloomberg reported that unsecured creditors, who are owed as much as \$260 million, would receive \$96.5 million under the plan announced Jan. 11 in U.S. Bankruptcy Court in Wilmington, Del.

The tracks MEC would keep are Golden Gate Fields and Santa Anita Park in California, and Gulfstream Park in Florida. MEC also would keep its XpressBet.com advance deposit wagering system, currently based at The Meadows Racetrack & Casino in Pennsylvania.

MEC earlier sold The Meadows, a harness track, to a casino company.

MID, which will take control of the tracks and XpressBet.com, will pay unsecured creditors \$76.5 million, with the remainder of the settlement amount coming from the sale of tracks, Bloomberg reported. If the tracks bring an amount that would take the total beyond \$96.5 million, the additional funds would also accrue to the unsecured creditors.

Two MEC properties, Laurel Park and Pimlico Race Course in Maryland, are scheduled to be auctioned later in January.

Kenneth Eckstein, a New York attorney representing the creditors, said it is a "fairly complicated plan, but it is one we think we have a general grasp on," according to Bloomberg. He said the agreement would be filed with the court by Feb. 12. *Source: The Bloodhorse*

California Owner Waranch Dies At 78

Ronald Waranch, a long-time owner who raced multiple graded stakes winner and Central Kentucky sire Northern Afleet in a partnership, died on Wednesday. He was 78.

Waranch, a successful homebuilder and entrepreneur in Southern California, bought Northern Afleet for \$55,000 in the 1994 Keeneland September yearling sale and raced him with Greg Anderson.

Trained by David Hofmans, Northern Afleet won the 1997 San Fernando Breeders' Cup Stakes (G2), San Carlos Handicap (G2), and San Diego Handicap (G3).

Waranch retained shares in Northern Afleet's stud career and raced some of his offspring, including 2005 Palos Verdes Handicap (G2) winner Saint Afleet and '09 Oceanside Stakes winner Afleet Eagle.

Waranch also won the California Oaks last year with Will O Way in a partnership with Holly and David Wilson. Waranch and the Wilsons were long-time clients of trainer Vladimir Cerin.

"I trained for him more than 20 years," Cerin said. "He fired me four times, and he'd usually take me out to breakfast when he did it. One time I asked him if he could fire me first, so we could order. We became close friends through the years."

A native of Gettysburg, Pennsylvania, Waranch was a 2002 inductee of the Horatio Alger Association of Distinguished Americans as a role model for overcoming humble beginnings. *Source: Thoroughbred Times*

Kentucky Attorney General: Instant Racing Not Permissible

Instant Racing machines would not be legal under current Kentucky law because they do not qualify as pari-mutuel wagering, according to Kentucky Attorney General Jack Conway.

The opinion, written by Assistant Attorney General Lisa K. Lang and signed by Conway, was delivered on Tuesday when Kentucky's Legislature convened for its 2010 general session.

Instant Racing is a betting game that allows people to wager on the results of previously run races from individual terminals similar to slot machines. It has been a huge success at Oaklawn Park in Arkansas.

The opinion was requested by Kentucky state Senator Damon Thayer (R-Georgetown) in April 2009.

Despite the overall message, Thayer believes Lang and Conway actually left the door open for Instant Racing in Kentucky because they stated that Instant Racing does not constitute pari-mutuel wagering as defined by the administrative regulations promulgated by the Kentucky Horse Racing Authority.

Thayer said that not only could the commission change its definition of pari-mutuel wagering, but Governor Steve Beshear could issue an emergency administrative regulation granting racetracks the right to install and operate the machines.

"To me this leaves the authority in the hands of the racing commission and the governor," Thayer said. "I would urge the governor and racing commission to review the attorney general's opinion and consider moving forward with an administrative regulation that would allow racetracks to install these Instant Racing machines."

"The usual review process would be bypassed, and they could operate Instant Racing machines in 30 days."

Additionally, Thayer said he has drafted a bill to legalize Instant Racing machines. That bill has not been filed.

The 2010 general session will feature the latest debate on how and if Kentucky tracks can get in on the lucrative gaming market that has revitalized purses and breeding programs in states such as Indiana, Louisiana, and Pennsylvania.

Thayer is the author of a proposal that would ask Kentucky voters if the commonwealth's constitution should be amended to allow to video lottery terminals in the seven counties that currently have racetracks. Thayer hopes his bill—Senate Bill 21—will be assigned to the State and Local Government Committee, which he chairs.

That committee will have its first meeting on January 13 at noon, and Thayer said he hopes to move the bill early in the 60-day session.

A differing approach to bringing slots to Kentucky—legalization through statute instead of referendum—is expected to be filed in the Kentucky House. *Source: Thoroughbred Times*

The New York Racing Association To Unload Documents

The New York Racing Association is gearing up to unload bundles of internal documents on Comptroller Thomas DiNapoli, including disclosures NYRA officials have a strong aversion to giving up -- such as their salaries.

DiNapoli said he has been in touch with NYRA representatives in recent days, and it is clear the not-for-profit association wants to avoid a legal confrontation after the comptroller subpoenaed records.

Last week, DiNapoli granted NYRA's request for a one-week extension on furnishing the materials sought in last month's subpoena. The records are now due Jan. 19. Among 2008 and 2009 materials demanded are all purchase orders, contracts, consultant agreements, invoices, vouchers, payroll registers and any and all documents supporting payroll expenses, including employee time and attendance records.

NYRA President Charles Hayward, who triggered the subpoena by resisting DiNapoli's request for auditors to inspect books, has said that the association might have to close racing next year because of cash flow problems due in part to the state's inability to get a racino built at Aqueduct Race Track.

He said that money is so tight that he and other non-union employees will have their wages frozen this year. He would not provide details on executive salaries, which NYRA considers proprietary -- although other tracks, such as Churchill Downs, publicize salaries.

According to people familiar with NYRA's finances, Hayward, chief attorney Patrick Kehoe and Chief Operating Officer Hal Handel are paid more than \$400,000. In 2006, when NYRA was required to reveal expenses as part of its bankruptcy filing, Hayward's salary was listed at \$377,746 and Kehoe's at \$376,923. The association could afford raises after the state provided \$105 million and forgave more than \$100 million in debt to allow NYRA to emerge from bankruptcy protection. In return, NYRA dropped a disputed claim to owning the real estate of the Aqueduct, Belmont and Saratoga Springs thoroughbred tracks.

Friend in the race

As for competition for an Aqueduct racino, Gov. David Paterson has a tie to SL Green, a bidder trying to build and operate a video lottery terminal parlor at the Queens track. SL Green hired Bill Lynch as a \$7,500-per-month lobbyist in November; Lynch is Paterson's political adviser. Lynch said the Paterson campaign paid him \$10,000 last year but he has been working for free for months. He said he doesn't talk to the governor about Aqueduct.

Fracking funds

Don't be surprised to see a new tax on natural gas drilling from the Marcellus Shale deep below New York's Southern Tier. Pennsylvania Gov. Edward G. Rendell alerted his Legislature that he's going to put a "severance tax" in his budget next month as a revenue-raiser for a cash-strapped Keystone State. He predicts at least \$107 million from a proposed tax on companies that "sever" gas from the Marcellus rock. Asked about doing the same, Paterson said "an extraction tax is something we would look at." The governor proposed just that in a program bill last year, but it went nowhere.

The 2010-2011 budget is due April 1, but the governor may be forced to extend this year's budget, legislative staffers say. The Legislature is off 11 days during crunch time, from March 27 to April 6. *Source: Times Union.com*

Delaware Panel Rejects Casino Expansion

The Delaware Sports and Video Lottery Commission Jan. 12 rejected the results of a study that suggests adding two casinos in the state would increase revenue and jobs.

The state-commissioned study was sent to the General Assembly for consideration.

The Wilmington News Journal reported that five of six legislators on the gambling commission voted to warn the General Assembly the addition of two casinos could "damage" the horse racing industry and threaten the viability of the existing three casinos, all of which are located at racetracks.

The state's three tracks—Delaware Park, Dover Downs, and Harrington Raceway & Casino—have video lottery terminals and offer limited sports betting. The General Assembly this year is expected to take action on a proposal for table games at the tracks.

The tracks and other groups last year began a "Three is Enough" campaign and commissioned their own study, which suggested three casinos are sufficient for the market.

Several proposals for new casinos in Delaware have been floated, including one for a new harness track with gaming near the beaches in extreme southern Delaware, and a non-track gaming parlor in Wilmington in the northern part of the state. *Source: Bloodhorse*

Jockey Apologizes For Philly Incident

Jockey Eriluis Vaz, one of two riders involved in a mounted fight during the fifth race at Philadelphia Park Casino & Racetrack Jan. 8, has issued a public apology for what he terms "bad judgment" as he awaits a hearing before the stewards along with fellow rider Ademar Santos.

"I would like to...say how sorry I really am for the incident that happened between myself and Mr. Santos," Vaz wrote in a statement that was issued to the horse racing television network TVG. "I made a terrible mistake reacting the way I did during the race the other day."

Vaz and Santos face a stewards' ruling after coming to blows during the running of a race for \$7,500 claimers at Philadelphia Park. Vaz was racing along the rail on the Luis Calderon-trained Divine Light and sent his mount

toward the outside, causing Santos, aboard John Dunn trainee Mi Helena, to be pinched between horses. As Vaz corrected his mount, Santos stood in the irons and turned his head to speak to Vaz.

“I asked, ‘Man, why you go like that?’” Santos told The Philadelphia Inquirer.

After Santos spoke to Vaz, Vaz punched Santos in the face. Santos swung back, then Vaz struck at him with his whip before Santos’ mount drew away. Vaz and Divine Light finished fifth but were disqualified to ninth by the stewards. Mi Helena and Santos finished ninth.

“I made a mistake, one that I will regret the rest of my life,” Vaz stated. “I used bad judgment and should have handled the situation differently. I apologize to everyone for my actions, and hope that I will be forgiven by all the owners and trainers that I am privileged to ride for...also my fellow riders, and the betting public who back me day after day...I am heartfully (sic) sorry.”

The jockeys will go before the Philadelphia Park stewards at 10 a.m. EST Jan. 21. *Source: Bloodhorse*

Horsemen Wary Of Florida Drug Positives

At least five Florida positives for a widely-used therapeutic tranquilizer have horsemen’s groups on edge.

The positive tests were for fluphenazine, which is considered a therapeutic drug even though it is a Class II substance. Horsemen’s representatives said the drug is commonly used and recognized as therapeutic by the American Association of Equine Practitioners and Racing Medication and Testing Consortium.

Florida Horsemen’s Benevolent and Protective Association executive director Kent Stirling said Jan. 12 he received confirmation of two fluphenazine positives but heard there are at least five. Stirling acknowledged the drug isn’t uniformly regulated; cutoff times for administration vary from four days to 30 days, but some states have no guidelines.

“We’re going to be putting a warning on the overnight (sheet at Gulfstream Park),” Stirling said. “I’m told in one positive (the fluphenazine) was administered 39 days out.”

Because the drug is Class II, it carries a substantial penalty, Stirling said.

The tests were performed at the University of Florida laboratory, which also handles equine drug testing for Kentucky. The Kentucky HBPA was notified of the positives and the possibility that testing sensitivity may have changed.

Stirling said there hasn’t been a fluphenazine positive in Florida to his knowledge.

Dr. Thomas Tobin, an adviser to the National HBPA, said in a memo to horsemen the testing most likely was highly sensitive, and there are no threshold levels or withdrawal times available for the drug.

Sensitivity of drug testing and the need for uniform threshold levels and withdrawal times were topics of conversation and debate during industry meetings in December. *Source: Bloodhorse*

Slots Funds For Jockeys Take A Hit

If you believe Marylanders said yes to slots on even a partial pretense that doing so would help save the state's horseracing tracks from bankruptcy, a bill already filed for consideration this year will knock you for a loop.

A Howard County delegate has proposed to whack the cut of video slots proceeds set aside to bulk up the purses awarded to winning jockeys. Horsemen had backed the slots legislation in part because it promised to make racing more lucrative; jockeys at Ocean Downs and elsewhere have seen purses shrink for years. If this bill is passed, jockeys will see that promise snatched out from underneath them. The bill would reduce the percentage of proceeds set aside for purses from 5.5 percent to just 2 percent. No more than \$50 million a year could support the purses under the bill; way back in 2008, when slots weren't yet a done deal, supporters promised horsemen that purse support would range up to \$100 million a year.

Where's the money going? To the State Lottery Agency, to defray the costs of running the video lottery machines themselves. In the bill Marylanders had a referendum on, no more than 2 percent of proceeds would go to overhead. But if this new bill goes through, 5.5 percent of slots proceeds -- as much as \$75 million -- will go to the lottery agency for buying software, performing background investigations on slots-parlor owners, and testing video lottery terminals.

It's a classic switcheroo at the jockeys' expense, benefiting the state government and whomever it pays to help it administer slots gaming. Beneficiaries like GTECH Corp., which just last week won a \$21.5 million state contract to build a monitoring system for slots. Comptroller Peter Franchot voted against the contract because, he said, there's no money budgeted for it yet. But the governor and the treasurer voted for the contract. *Source: Delmarva Media Group*

Horse Betting Could Become Legal In Augusta

One Augusta group is racing to support a new idea that could equal big money--horse betting!

The Georgia-South Carolina Horse Racing Committee wants to change state law to allow betting on horses.

The group tells us if the law is changed, Augusta could be a prime location for a track.

Commissioner Joe Bowles says he thinks the idea is worth considering. *Source: NBC Augusta.com*

Fairmount Park Limited To Three Racing Dates For 2010

Fairmount Park has been stripped of virtually all of its live racing dates for 2010 -- down to just three -- due to a labor disagreement.

As it stands right now, Fairmount Park will host its shortest racing season ever with live races held on April 27, April 30 and May 1.

The Illinois Racing Board made the decision late Tuesday after the union representing six state employees working at the Collinsville horse track turned down the latest offer from the track. The board had set the day as a deadline for the metro-east track to reach an agreement over work days for the upcoming season.

In September, the racing board awarded the metro-east horse track 52 dates if it could reach an agreement with its employees. The union had initially proposed 130 working days at the track per an arbitrator's decision that was made in September. The workers, represented by the American Federation of State, County and Municipal Employees, were offered 75 working days and countered with 105.

The six state workers represented by the union are a steward secretary, two state stewards, a licensing clerk, a state veterinarian and a security coordinator. They work alongside the ticket takers, horse trainers and other employees at Fairmount Park. The track operates year-round and provides inter-track wagering and simulcast wagering on races at other tracks. It's unclear whether any of the track's employees will be laid off as a result of Tuesday's actions.

Fairmount Park President Brian Zander issued a statement Wednesday and declined further comment.

"Fairmount Park is currently reviewing the communication sent by the (Illinois Racing Board) concerning the status of the board's employees that work at the racetrack and has no comment at this time," Zander said.

Lanny Brooks, who as executive director of the Illinois Horseman's Benevolent and Protective Association represents the 66 horse owners and their trainers at Fairmount Park, is disappointed.

"It's terrible," Brooks said. "It's a bad deal."

Racing board executive director Marc Laino said the union's main sticking point is providing its workers with health insurance. So the board had negotiated and offered 75 racing days with an additional 13 working days at the state fairs to be held later this year in Springfield, DuQuoin and Brown County. Laino said the proposal gave workers 88 work days and would have guaranteed the workers health insurance through June 2011.

"I feel that was a more than generous proposal for a work schedule, but that was rejected by the union," Laino said. "Unfortunately, that brings us to the dates order deadline that effectively vacates the meet to three days."

Laino said that Fairmount Park had to host at least one live race to be eligible for money from advance deposit wagering -- Internet-based wagering that state lawmakers and racing board approved last year that as of October provides Illinois horse-racing venues with a share of bets placed online.

The number of live dates has been dwindling at the Collinsville track over the past decade. In 1999, the year the track last hosted harness racing, it held 232 races. The following seasons have been shrinking since then. There were 90 race dates in 2006 and 2007. In 2008, the schedule was reduced to 60 dates, and last year's schedule was suddenly cut on Aug. 15 after 57 dates when 75 had initially been scheduled.

Union representative Kent Beauchamp said there should be no link between the number of days six workers get at Fairmount Park and the length of the track's racing schedule.

"It's ridiculous that the racing board is trying to hold Fairmount Park hostage," Beauchamp said.

Jeff Bowen, the senior state steward with the racing board and top regulatory official at Fairmount Park, said he does not know if there is still time to appeal the board's decision.

"I believe there are some people trying to resolve it," Bowen said. "There are probably things going on behind the scenes that don't necessarily have knowledge of."

"The deadline has come and gone," Laino said. "The point where the board can modify its own order and restore race days and extend the deadline, it is unlikely that will occur." *Source: BND.com*

Alberta Downs Grandstand Taking Shape



Recent reports from Canada's newest harness racing track illustrate the progress on the grandstand at Alberta Downs. The Red Deer Advocate reports that the grandstand, pictured here, will hold 1,500 people when completed this spring.

Canada's only one-mile oval. Alberta Downs is slated to hold a total 53 days of racing in 2010 – 50 of those days being harness racing through the summer up until August 29. *Source: Standard Bred Canada*

Ruidoso Fights To Keep Racino Current Tax Structure May Force Relocation

The days of the Ruidoso Downs race track and casino could be numbered Ann McGovern, who runs the racino, said unless the state legislature gives Ruidoso Downs a tax break, the racino is prepared to leave. "Without some type of tiered tax structure, it's going to be very difficult for us to remain here," said McGovern. "It's heartbreaking to think there would be no racing in Ruidoso." Currently the racino, like all racinos in New Mexico, pays the state 26 percent of their earnings. A tiered tax proposal would lower the tax to 10 percent on the first \$10 million in earnings. Anything above and beyond will continue to be taxed at 26 percent. Racino officials said this would allow them to break even annually, something that has not happened since 2003. If not, the racino would be forced to leave, taking millions of dollars and hundreds of jobs. Nearby hotel proprietors said they are the winners when the horses are running, generating nearly 70 percent of their summer revenue. If the racino closed, "It will virtually wipe us out," said Cee Jay Bowker of the Pine Springs Inn. Ruidoso Downs officials said if the tiered tax proposal is approved, it would cost the state less money than if they had to move the racino. If it does leave, Las Cruces could be a likely destination, racino officials said. *Source: KOAT Channel 7*

Another Billion-Dollar Decline In Wagering

For the second straight year, wagering on U.S. Thoroughbred races declined by more than \$1-billion.

Wagering on U.S. races was down \$1.35-billion to \$12,319,129,673 in 2009, a percentage drop of 9.9%. Hurt by the overall ailing economy as well as industry-specific issues, the decline represents the sharpest drop in more than 25 years.

The total handle figure is the first time wagering has dipped below \$12.5-billion since 1996, when \$11.63-billion was wagered. The difficult year follows a 7.2% decline in handle last year, meaning '09 handle is down \$2.41-billion compared with '07, a decline of 16.4%.

Other Thoroughbred racing economic indicators for the U.S. released Wednesday by Equibase also showed significant declines as purses were down 5.6% to \$1,093,875,799, the lowest figure since '05 when \$1.09-billion in purses were awarded.

National Thoroughbred Racing Association President Alex Waldrop said other industries have experienced similar challenges.

“A decline of this magnitude for the year is nothing to celebrate, but it does compare favorably to that of many other industries in 2009, especially when combined with an overall decline in the number of race dates,” Waldrop said. “Also, the decrease in the rate of decline over the final two quarters may indicate that the worst is behind us. I believe that horseracing will reverse these trends in the years ahead, especially as we develop new ways to capitalize on our unique right to conduct legal, online wagering.”

Race days declined 2.6% in '09 to 5,934.

December featured numbers similar to the year overall as wagering was down 8.7% for the month to \$748,685,618 and purses were down 2.3% to \$58,742,586.

Thoroughbred Racing Economic Indicators, courtesy of Equibase Co. December 2009 vs. December 2008

Indicator	December 2009	December 2008	% Change
Wagering on U.S. Races*	\$748,685,618	\$820,358,357	-8.74%
U.S. Purses	\$58,742,586	\$60,123,263	-2.30%
U.S. Race Days	332	330	0.61%

Annual 2009 vs. Annual 2008

Indicator	Annual 2009	Annual 2008	% Change
Wagering on U.S. Races	\$12,319,129,673	\$13,669,477,234	-9.88%
U.S. Purses	\$1,093,875,799	\$1,158,616,930	-5.59%
U.S. Race Days	5,934	6,093	-2.61%

Source: Thoroughbred Times