

S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

March 18, 2009

Introduced by M. of A. NOLAN -- read once and referred to the Committee on Mental Health, Mental Retardation and Developmental Disabilities

AN ACT to amend the mental hygiene law, the state finance law and the racing, pari-mutuel wagering and breeding law, in relation to the treatment of pathological gambling and establishing the pathological gambling treatment and education fund to consist of certain revenues derived from pari-mutuel betting

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 1.03 of the mental hygiene law is amended by adding
2 two new subdivisions 56 and 57 to read as follows:
3 56. "PATHOLOGICAL GAMBLING" MEANS A CHRONIC AND PROGRESSIVE INABILITY
4 TO RESIST IMPULSES TO GAMBLE WHICH COMPROMISES, DISRUPTS, OR DAMAGES
5 FAMILY, PERSONAL AND VOCATIONAL PURSUITS.
6 57. "PATHOLOGICAL GAMBLER" MEANS ANY PERSON WHO IS AFFLICTED WITH THE
7 ILLNESS OF PATHOLOGICAL GAMBLING.
8 S 2. Subdivision (a) of section 19.07 of the mental hygiene law, as
9 amended by section 4 of part I of chapter 58 of the laws of 2005, is
10 amended to read as follows:
11 (a) The office of alcoholism and substance abuse services is charged
12 with the responsibility for assuring the development of comprehensive
13 plans, programs, and services in the areas of research, prevention,
14 care, treatment, rehabilitation, education, and training of persons who
15 abuse or are dependent on alcohol and/or substances and their families.
16 THE OFFICE IS ALSO CHARGED WITH THE RESPONSIBILITIES FOR, WITHIN AVAIL-
17 ABLE APPROPRIATIONS, DEVELOPING PLANS, PROGRAMS AND SERVICES RELATED TO
18 PATHOLOGICAL GAMBLING TREATMENT AND EDUCATION CONSISTENT WITH SECTION
19 41.56 OF THIS CHAPTER. Such plans, programs, and services shall be
20 developed with the cooperation of the office, the other offices of the
21 department where appropriate, local governments, consumers and community
22 organizations and entities. The office shall provide appropriate facili-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 ties and shall encourage the provision of facilities by local government
2 and community organizations and entities. The office is also responsible
3 for developing plans, programs and services related to compulsive gambling
4 education, prevention and treatment consistent with section 41.57 of
5 this chapter.

6 S 3. Subdivision (a) of section 19.15 of the mental hygiene law, as
7 amended by chapter 208 of the laws of 1996, is amended to read as
8 follows:

9 (a) With the advice of the advisory council on alcoholism and
10 substance abuse services, and with the assistance of any interdepart-
11 mental council or committee heretofore or hereafter established that
12 shall be charged with the responsibility for interdepartmental cooper-
13 ation and program development in alcoholism, substance abuse, and chemi-
14 cal dependency, the commissioner shall promote, establish, coordinate,
15 and conduct programs for prevention, diagnosis, treatment, aftercare,
16 rehabilitation, and control in the fields of alcoholism, alcohol abuse,
17 substance abuse, substance dependence, and chemical dependence in coop-
18 eration with such other federal, state, local, and private agencies as
19 are necessary and, within the amount made available by appropriation
20 therefor, implement and administer such programs. THE COMMISSIONER SHALL
21 ALSO DEVELOP PLANS, AND CAUSE TO BE PROMOTED, PROGRAMS AND SERVICES
22 RELATED TO COMPULSIVE GAMBLING EDUCATION AND TREATMENT CONSISTENT WITH
23 SECTION 41.57 OF THIS CHAPTER AND PATHOLOGICAL GAMBLING TREATMENT AND
24 EDUCATION CONSISTENT WITH SECTION 41.56 OF THIS CHAPTER. HE OR SHE SHALL
25 TAKE ALL ACTIONS THAT ARE NECESSARY, DESIRABLE OR PROPER TO IMPLEMENT
26 THE PURPOSES OF THIS CHAPTER AND TO CARRY OUT THE PURPOSES AND OBJEC-
27 TIVES OF THE OFFICE WITHIN THE AMOUNTS MADE AVAILABLE THEREFOR BY APPRO-
28 PRIATION, GRANT, GIFT, DEVISE, BEQUEST OR ALLOCATION FROM THE PROBLEM
29 AND COMPULSIVE GAMBLING EDUCATION, PREVENTION AND TREATMENT FUND ESTAB-
30 LISHED UNDER SECTION NINETY-NINE-I OF THE STATE FINANCE LAW OR THE PATH-
31 OLOGICAL GAMBLING TREATMENT AND EDUCATION FUND ESTABLISHED UNDER SECTION
32 NINETY-ONE-H OF THE STATE FINANCE LAW.

33 S 4. The mental hygiene law is amended by adding a new section 41.56
34 to read as follows:

35 S 41.56 PATHOLOGICAL GAMBLING TREATMENT AND EDUCATION PROGRAM.

36 NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS ARTICLE AND WITHIN
37 AMOUNTS MADE AVAILABLE THEREFOR BY APPROPRIATION, OR ALLOCATION FROM THE
38 PATHOLOGICAL GAMBLING TREATMENT AND EDUCATION FUND ESTABLISHED PURSUANT
39 TO SECTION NINETY-ONE-H OF THE STATE FINANCE LAW, THE COMMISSIONER OF
40 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IS AUTHORIZED TO DEVELOP,
41 EXPAND, OPERATE OR CAUSE TO BE OPERATED PATHOLOGICAL GAMBLING TREATMENT
42 AND EDUCATION PROGRAMS. SUCH COMMISSIONER MAY EMPLOY ANY CONSULTANTS
43 DEEMED NECESSARY TO EFFECTUATE THE PURPOSE OF THIS SECTION AND ENTER
44 INTO CONTRACT WITH ANY NOT-FOR-PROFIT CORPORATION OR PROPRIETARY HOSPI-
45 TAL FOR PROVISION OF APPROPRIATE SERVICES. ON THE THIRTIETH DAY OF JANU-
46 ARY AFTER THE EFFECTIVE DATE OF THIS SECTION AND EACH JANUARY THIRTIETH
47 THEREAFTER, SUCH COMMISSIONER SHALL SUBMIT TO THE GOVERNOR AND THE
48 LEGISLATURE A REPORT DETAILING THE IMPLEMENTATION OF THIS SECTION AND
49 MAKING RECOMMENDATION FOR FUTURE DEVELOPMENT OF PATHOLOGICAL GAMBLING
50 TREATMENT AND EDUCATION PROGRAMS.

51 S 5. The state finance law is amended by adding a new section 91-h to
52 read as follows:

53 S 91-H. PATHOLOGICAL GAMBLING TREATMENT AND EDUCATION FUND. 1. THERE
54 IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL
55 FUND TO BE KNOWN AS THE "PATHOLOGICAL GAMBLING TREATMENT AND EDUCATION
56 FUND".

2. SUCH FUND SHALL CONSIST OF UNCLAIMED LOTTERY PRIZES DEPOSITED PURSUANT TO PARAGRAPH (VI) OF SUBDIVISION THREE OF SECTION NINETY-TWO-C OF THIS ARTICLE, AND UNPAID MONEY DUE ON ACCOUNT OF PARI-MUTUEL TICKETS NOT PRESENTED, DEPOSITED PURSUANT TO SECTIONS TWO HUNDRED THIRTY-TWO, THREE HUNDRED TWENTY-EIGHT, FOUR HUNDRED TWENTY-SIX AND FIVE HUNDRED TWENTY-NINE OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW.

3. MONEYS OF THE FUND, INCLUDING INVESTMENT EARNINGS, FOLLOWING APPROPRIATION BY THE LEGISLATURE, SHALL BE AVAILABLE ONLY FOR THE DEVELOPMENT, EXPANSION AND OPERATION OF PATHOLOGICAL GAMBLING TREATMENT AND EDUCATION PROGRAMS CONDUCTED IN ACCORDANCE WITH SECTION 41.56 OF THE MENTAL HYGIENE LAW. MONEYS FOR SUCH PURPOSES SHALL BE USED TO THE EXTENT THAT THEY ARE AVAILABLE WITHIN THE FUND.

4. ANY MONEYS IN SUCH FUND MAY BE INVESTED IN OBLIGATIONS OF THE UNITED STATES OR OF THIS STATE, OR IN OBLIGATIONS THE PRINCIPAL AND INTEREST ON WHICH ARE GUARANTEED BY THE UNITED STATES OR THIS STATE OR AS AUTHORIZED BY SECTION NINETY-EIGHT OF THIS ARTICLE. PROCEEDS OF SUCH INVESTMENTS SHALL BE CREDITED TO THE FUND BY THE COMPTROLLER.

S 6. Subdivision 3 of section 92-c of the state finance law, as amended by chapter 913 of the laws of 1977, is amended to read as follows:

3. The moneys in such fund shall be appropriated or transferred only (i) for repayment of first instance expenditures incurred in the operation of the state lottery, (ii) for the state fiscal year commencing April first, nineteen hundred seventy-six only for the purpose of providing aid to pupils with special educational needs as defined in paragraph e of subdivision one of section thirty-six hundred two of the education law, and pupils with handicapping conditions receiving state financial support for programs delineated in paragraph f of subdivision one of section thirty-six hundred two, article eighty-three, article eighty-five, article eighty-seven, article eighty-eight, article eighty-nine, AND article forty [and subdivision seventeen of section thirty-six hundred two of the education law], and for any state fiscal year commencing after such nineteen hundred seventy-six fiscal year for the purpose of providing aid to all school children pursuant to the provisions of subdivision four of this section, (iii) for elementary and secondary education, (iv) for expenditures for machines or other capital equipment which the division of the lottery is authorized to purchase for the operation of the lottery [and], (v) for payment in the state fiscal years commencing April first, nineteen hundred seventy-seven, nineteen hundred seventy-eight and nineteen hundred seventy-nine into the winter sports education trust fund, as created in section four hundred ninety-five-a of article ten-C of the education law, for the purposes of such fund in accordance with the provisions of subdivision five of this section, AND (VI) TO THE PATHOLOGICAL GAMBLING TREATMENT AND EDUCATION FUND ESTABLISHED PURSUANT TO SECTION NINETY-ONE-H OF THIS ARTICLE FOR THE DEVELOPMENT, EXPANSION AND OPERATION OF COMPULSIVE GAMBLING TREATMENT AND EDUCATION PROGRAMS CONDUCTED IN ACCORDANCE WITH ARTICLE FORTY-ONE OF THE MENTAL HYGIENE LAW. Payments into such trust fund shall discontinue at such time as the sum of one hundred million dollars, in the aggregate, has been paid into such fund or upon March thirty-first, nineteen hundred eighty, whichever event occurs first. Nothing herein shall prohibit the purchase of machines or other capital equipment from funds appropriated for expenditures under paragraph (i) hereof.

S 7. Section 92-c of the state finance law is amended by adding a new subdivision 9 to read as follows:

1 9. MONEYS APPROPRIATED TO THE PATHOLOGICAL GAMBLING TREATMENT AND
2 EDUCATION FUND PURSUANT TO PARAGRAPH (VI) OF SUBDIVISION THREE OF THIS
3 SECTION SHALL BE IN AN AMOUNT EQUAL TO TWENTY PERCENT OF UNCLAIMED
4 PRIZES AND SHALL BE DEPOSITED IN SUCH FUND BY MARCH FIFTEENTH.

5 S 8. Section 241 of the racing, pari-mutuel wagering and breeding law,
6 as amended by chapter 18 of the laws of 2008, is amended to read as
7 follows:

8 S 241. Disposition of unpaid money due on account of pari-mutuel tick-
9 ets not presented. The sum held by any corporation authorized to conduct
10 pari-mutuel betting for payment of outstanding winning pari-mutuel tick-
11 ets and for refunding the price of pari-mutuel tickets shall be retained
12 by such corporation for such purposes until April first of the succeed-
13 ing year; provided, however, that ninety-five per centum of such sum
14 remaining unclaimed as of the last day of February of such year shall be
15 paid to the department of taxation and finance by March fifteenth. On
16 April tenth, the balance of such sum remaining unclaimed and any other
17 unclaimed amount received in the course of conducting pari-mutuel
18 betting shall be paid to the department of taxation and finance. A
19 penalty of five per centum and interest at the rate of one per centum
20 per month from the due date to the date of payment of the unclaimed
21 balance due March fifteenth or April tenth, as the case may be, shall be
22 payable in case such balance is not paid when due. Such amounts, inter-
23 est and penalties when collected, MINUS TWENTY PER CENTUM, shall be paid
24 by the department of taxation and finance into the general fund of the
25 state treasury. TWENTY PER CENTUM OF SUCH AMOUNTS SHALL BE PAID BY THE
26 COMMISSIONER OF TAXATION AND FINANCE INTO THE PATHOLOGICAL GAMBLING
27 TREATMENT AND EDUCATION FUND ESTABLISHED PURSUANT TO SECTION
28 NINETY-ONE-H OF THE STATE FINANCE LAW.

29 S 9. Section 328 of the racing, pari-mutuel wagering and breeding law
30 is amended to read as follows:

31 S 328. Disposition of unpaid money due on account of pari-mutuel tick-
32 ets not presented. The sum held by any corporation or association
33 authorized to conduct pari-mutuel betting for payment of outstanding
34 winning pari-mutuel tickets and for refunding the price of pari-mutuel
35 tickets shall be retained by such corporation or association for such
36 purposes until April first of the succeeding year; provided, however,
37 that ninety-five per centum of such sum remaining unclaimed as of the
38 last day of February of such year shall be paid to the [state tax
39 commission] COMMISSIONER OF TAXATION AND FINANCE by March fifteenth. On
40 April tenth, the balance of such sum remaining unclaimed and any other
41 unclaimed amount received in the course of conducting pari-mutuel
42 betting shall be paid to the [state tax commission] COMMISSIONER OF
43 TAXATION AND FINANCE. A penalty of five per centum and interest at the
44 rate of one per centum per month from the due date to the date of
45 payment of the unclaimed balance due March fifteenth or April tenth, as
46 the case may be, shall be payable in case such balance is not paid when
47 due. Such amounts, interest and penalties when collected, LESS TWENTY
48 PER CENTUM, shall be paid by the [state tax commission] COMMISSIONER OF
49 TAXATION AND FINANCE into the general fund of the state treasury. TWENTY
50 PER CENTUM OF SUCH AMOUNTS SHALL BE PAID BY THE COMMISSIONER OF TAXATION
51 AND FINANCE INTO THE PATHOLOGICAL GAMBLING TREATMENT AND EDUCATION FUND
52 ESTABLISHED PURSUANT TO SECTION NINETY-ONE-H OF THE STATE FINANCE LAW.

53 S 10. Section 426 of the racing, pari-mutuel wagering and breeding law
54 is amended to read as follows:

55 S 426. Disposition of unpaid money due on account of pari-mutuel
56 tickets not presented. The sum held by any corporation or association

1 authorized to conduct pari-mutuel betting for payment of outstanding
2 winning pari-mutuel tickets and for refunding the price of pari-mutuel
3 tickets shall be retained by such corporation or association for such
4 purposes until April first of the succeeding year; provided, however,
5 that ninety-five per centum of such sum remaining unclaimed as of the
6 last day of February of such year shall be paid to the [state tax
7 commission] COMMISSIONER OF TAXATION AND FINANCE by March fifteenth. On
8 April tenth, the balance of such sum remaining unclaimed and any other
9 unclaimed amount received in the course of conducting pari-mutuel
10 betting shall be paid to the [state tax commission] COMMISSIONER OF
11 TAXATION AND FINANCE. A penalty of five per centum and interest at the
12 rate of one per centum per month from the due date to the date of
13 payment of the unclaimed balance due March fifteenth or April tenth, as
14 the case may be, shall be payable in the case such balance is not paid
15 when due. Such amounts, interest and penalties when collected, MINUS
16 TWENTY PER CENTUM, shall be paid by the [state tax commission] COMMIS-
17 SIONER OF TAXATION AND FINANCE into the general fund of the state treas-
18 ury. TWENTY PER CENTUM OF SUCH AMOUNT SHALL BE PAID BY THE COMMISSIONER
19 OF TAXATION AND FINANCE INTO THE PATHOLOGICAL GAMBLING TREATMENT AND
20 EDUCATION FUND ESTABLISHED PURSUANT TO SECTION NINETY-ONE-H OF THE STATE
21 FINANCE LAW.

22 S 11. Section 529 of the racing, pari-mutuel wagering and breeding law
23 is amended to read as follows:

24 S 529. Unclaimed winnings and refunds. The board shall require each
25 regional corporation to establish a non-escrowed account for payment of
26 outstanding winning tickets and for payment of refunds to ticket holders
27 entitled thereto under the rules of the board.

28 1. All tickets must be presented for payment to the regional corpo-
29 ration from which purchased prior to April first of the year following
30 the year of purchase.

31 2. Ninety-five percent of the balance of such account remaining
32 unclaimed as of the last day of February of such year shall be paid to
33 the [state tax commission] COMMISSIONER OF TAXATION AND FINANCE by March
34 fifteenth. On or before April tenth of each year the balance of such
35 account and any other unclaimed amounts received in the course of
36 conducting off-track betting shall be paid by such corporation to the
37 [state tax commission] COMMISSIONER OF TAXATION AND FINANCE. A penalty
38 of five percent and interest at the rate of one percent per month from
39 the due date to the date of payment of the unclaimed balance due March
40 fifteenth or April tenth, as the case may be, shall be payable in case
41 such balance is not paid when due. Such amounts, interest and penalties
42 when collected by the [state tax commission] COMMISSIONER OF TAXATION
43 AND FINANCE, MINUS TWENTY PERCENT, shall be deposited into the general
44 fund of the state treasury. TWENTY PERCENT OF SUCH AMOUNT SHALL BE
45 DEPOSITED BY THE COMMISSIONER OF TAXATION AND FINANCE INTO THE PATHOLOG-
46 ICAL GAMBLING TREATMENT AND EDUCATION FUND ESTABLISHED PURSUANT TO
47 SECTION NINETY-ONE-H OF THE STATE FINANCE LAW.

48 S 12. This act shall take effect one year after it shall have become a
49 law.