§ 902. Equine drug testing and expenses. 1. In order to assure the public's confidence and continue the high degree of integrity in racing at the pari-mutuel betting tracks, equine drug testing at race meetings shall be conducted by a state college or at a land grant university within this state. The commission shall promulgate any rules and regulations necessary to implement the provisions of this section, including administrative penalties of loss of purse money, fines, or denial, suspension or revocation of a license for racing drugged horses.

2. Notwithstanding any inconsistent provision of the law, all costs and expenses of the gaming commission for equine drug testing and research shall be paid from an appropriation from the state treasury, on the certification of the executive director of the commission, upon the audit and warrant of the comptroller and pursuant to a plan developed by the commission as approved by the director of the budget; provided, however, the commission may direct the assessment imposed pursuant to subdivision three of this section to be paid directly to the laboratory authorized to conduct equine drug testing pursuant to subdivision one of this section, provided however, upon direction of the commission, any amounts directly paid to such laboratory shall constitute an encumbrance of appropriation.

3. (a) The commission may impose an assessment on each race track licensed or franchised pursuant to this chapter, and an additional per start fee, for any additional costs and expenses of equine drug testing and research conducted at a laboratory authorized pursuant to subdivision one of this section, after all other funds for such purpose have been expended.

(b) (i) The commission shall establish an assessable amount by May first of each year based on the projected deficit of revenues deposited into the racing regulation account established by section ninety-nine-i of the state finance law, including funds deposited pursuant to sections one hundred fifteen, two hundred thirty-six, two hundred thirty-eight, three hundred seven, three hundred eight, three hundred eighteen, five hundred twenty-seven, one thousand seven, one thousand eight, one thousand nine, one thousand fourteen, one thousand fifteen, one thousand sixteen, and one thousand eighteen of this chapter in relation to the

conduct of racing, the amount of funds paid for equipment pursuant to subdivision two of section two hundred twenty-eight of this chapter, the amount of funds received by the commission from the purse enhancement account for equine health and safety pursuant to paragraph two of subdivision b of section sixteen hundred twelve of the tax law in relation to video lottery terminal facilities at race tracks licensed pursuant to articles two and three of this chapter, and by the amount of funds generated by any other existing fees, taxes and assessments paid by race tracks or owners licensed pursuant to articles two and three of this chapter for the purpose of equine drug testing, compared to expenses in the racing regulation account. The commission shall impose the assessable amount as an assessment upon each race track, and as an additional per start fee on each owner. In no event shall the total assessable amount exceed the total expense projected by the commission for equine drug testing and research conducted at a laboratory authorized pursuant to subdivision one of this section during that year.

(ii) The total value of the assessment imposed upon all race tracks shall be fifty percent of the assessable amount calculated by subparagraph (i) of this paragraph, and shall be assessed in a manner that is proportional to the number of starts at each race track during the previous year. In no event shall any race track impose the cost of such assessment, in part or in whole, on any owner or trainer.

(iii) The total value of the additional per start fee imposed on owners licensed pursuant to this chapter as an additional per start fee shall be fifty percent of the assessable amount calculated by subparagraph (i) of this paragraph divided by the total number of starts in the previous year, and shall be assessed and paid in the same manner, and in addition to, the fee for the start of a horse in New York state pari-mutuel races provided by section one hundred fifteen-a of this chapter.

4. Payment of the assessment imposed by this section shall be made to the commission, or to the laboratory authorized to conduct equine drug testing if directed by the commission, by each entity required to make such payments. Payments of such assessment shall be made on the last business day of each month and shall cover one-twelfth of the annual assessment, provided however that all such payments required to be made

on the last day of April shall be due with the May payment. A penalty of five percent, and interest at the rate of one percent per month from the date the assessment, is due to the date of the payment of the assessment, and shall be payable in case any assessment imposed by this chapter is not paid when due. If the commission determines that any payment received under this section was paid in error, the commission may cause the same to be refunded without interest out of any monies collected thereunder, provided an application therefor is filed with the commission within one year from the time the erroneous payment is made.

5. Any deficit in the racing regulation account on March thirty-first of each year, excluding any deficit attributed to the negative fund balance as of March thirty-first, two thousand seventeen, shall be added to the assessable amount for the following year. Fifty percent of any surplus in such account as of March thirty-first of each year, not to exceed the amount of the assessment imposed on race tracks in that year, shall be used to reduce the assessment imposed on each race track in the following year in proportion to the amount paid by each race track in the year of the surplus. Fifty percent of any surplus in such account as of March thirty-first of each year, not to exceed the total amount of the additional start fees in that year, shall be used to reduce the additional per start fee in the following year. Such reduction shall be calculated in the same manner as the additional per start fee.

6. Not later than May first, each year, the commission shall submit to the director of the budget, the temporary president of the senate and the speaker of the assembly a report on the revenue generated by the assessment, the total cost of equine drug testing, and any projected deficit or surplus in the racing regulation account. The commission shall also publish such report on the commission's website as soon as practicable.

7. A franchised racing corporation may, in its discretion and at its expense, fund for the exclusive use or utilization of the commission, the construction and equipping of an equine drug testing and research laboratory pursuant to subdivision one of this section. Such corporation shall consult with the commission and relevant industry stakeholders

regarding the proper scope and equipping of a laboratory. The siting and use of such laboratory shall be pursuant to a long-term lease between the corporation and the commission. The commission shall operate or contract for the operation of such laboratory. The franchised corporation shall prepare an initial report for the year two thousand twenty-one, provided, however, the franchised corporation has elected to fund the construction and equipping of such laboratory. Such report shall be submitted to the governor, the speaker of the assembly, and the temporary president of the senate, no later than the first day of April two thousand twenty-one. The gaming commission shall also make the report public on their website. Such initial report shall include, but not be limited to, information related to the siting and initial and ongoing financing of the laboratory.