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### New York State and Gambling: Not So Perfect Together

- 1750 -1820 – Lotteries Galore in New York
- 1821: NYS Constitution bans lottery.
- 1894: NYS Constitution prohibits all gambling: “Nor shall any lottery or the sale of lottery tickets, pool-selling, book making, or any other kind of gambling hereafter be authorized or allowed within this State;”
- Provision still holds with exceptions.
- Nonetheless, NYS center of illegal gambling.

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### NY Horse Racing Survives from 1895-1939 Despite Constitutional Gambling Ban

- Horse Racing Largely Abides in New York for 45 Years Even with Gambling Ban.
- Much like NJ in 2014, New York in 1895 and 1934 decriminalized bookmaking and pool-selling on the grounds of licensed racetracks.
- Decriminalization upheld in 1897 by NY Court of Appeals.
- De Facto legalized bookmaking allowed in NY from 1895-1939.
- But civil law provisions voiding gambling contracts often make it hard to enforce these gambling contracts.

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### Current State of New York Gambling


Category	Revenue %
CASINOS	2.3
FANTASY SPORTS	0.4
CHARITABLE GAMING	0.7
HORSE RACING	4.2
INDIAN GAMING	1.1
VIDEO GAMING	28.8
TRADITIONAL LOTTERY	41.6

- 2018 = \$7.168 Billion Gambling Revenue in NY.

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Where Does the Money Come From?  
It's from the Lottery

- 44.6% from Traditional Lottery: That's Numbers, Jackpot Lotto Games, Quick Draw and Scratch Offs
- 28.8% from Video Lottery Terminals
- 73.5% of all gambling revenue in New York Comes from the Lottery



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Casinos and New York Gambling Revenue

21.5% of Revenue from Casinos.

14% from Tribal Casinos.

Likely 7.5% Of Revenue in 2019 from the 4 state Commercial Casinos

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Where Doesn't the Money Come From?

Basically 5% total from Horse Racing, Charitable Gaming and Daily Fantasy


Horse Racing 4.2%

Charitable Gaming .7%

Daily Fantasy .4%

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No Money from Sports Gambling



- Based on 3 months of operation:
- 4 upstate casinos are likely to have earnings of less than \$25 million from sports wagering in 1<sup>st</sup> 12 months.
- With some sports wagering at tribal casinos, it's likely that sports wagering in 2019 will account for .4% of sports gambling revenue.

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## Exceptions to Gambling Ban



- 1. Pari-mutuel Horse Racing (1939)
- 2. Bingo for Non-Profits (1957)
- 3. State operated Lottery (1966)
- 4. Games of Chance for Non-Profits (1975)
- 5. Maximum of Seven Casinos (2013)

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## 1939 Horse Racing



Exemption is only for pari-mutuel horse racing. No dog racing, No ai alai.

NY still continues to be the major state for horse racing, but it's faded in the stretch.


Revenue, handle and attendance a small fraction of what it was 50 years ago.

Tracks propped up by video lottery revenues. Every track in the state and the breeding industry supported by VLT's.

Future uncertain due to economics and animal right concerns

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## Horse Racing II



11 racetracks in state – 7 harness and 4 thoroughbred


OTB in 5 separate regions but not New York City

New York City OTB closed at end of 2010.

Also though phone and mobile wagering, you can bet on most every race anywhere in the world at any spot in NY state.

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## 1957 Bingo



- Participants seek to match randomly drawn numbers on 5x5 matrix
- Used to be a big deal.
- Once was a front for organized crime. Utica – called the "Sin City of the East."
- To avoid problems left to non-profits with emphasis on no commercialization.

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### Constitutional Bingo Limits

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1. Only in a municipality that has approved bingo by referendum.

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2. Only for religious, charitable or non-profit organizations of veterans, volunteer firefighter and such.

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3. Entire net proceeds to organization.

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4. Only organization people can run the game and no salaries.

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5. Significant prize limits – but raised in 2017 by statute to max of \$5 thou per game and \$15 thou per occasion.

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### State Operated Lottery (1966)

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New York becomes the 2<sup>nd</sup> state to authorize a lottery in the 20<sup>th</sup> century after New Hampshire

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Initially - just a raffle based on results of horse races.

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Bought your tickets in a bank.

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Turned into a weekly drawing.

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Initially incredibly unsuccessful. No revenue, Closed down in mid-1970's

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### State- operated Lottery II

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When lottery reopens in 1976 jackpot Lotto. Now Multi-states through Mega Millions and Powerball 16% of lottery revenue.

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Add daily numbers in 1980 now 36% lottery revenue

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Enhanced numbers – Pick 4, Take 5 Quick Draw

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Instant Scratch Offs in 1990's now 48% of lottery revenue.

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### Video Lotteries



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Authorized in 2001 – basically for racetracks

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Now at 6 tracks – 1 freestanding facility for Suffolk OTB – and 1 authorized in Orange County

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Look like slot machines to the world – but are electronic versions of instant scratch offs.

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Also electronic table games

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No player skill is supposed to be an element in VLT operation. Massive operations in Aqueduct and Yonkers. Revenue at Aqueduct in last FY was \$861 million.

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### Games of Chance (1975)

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Games of chance for non-profits.

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Under same constraints as bingo. No commercialization.

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Locality must approve.

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Only non - profits. Limits on prizes. All net to organization.

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Members must work the games for no pay.

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### Games of Chance II

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Games approved.

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Craps, roulette, black jack, Big 6, Money Wheels.

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Bell jars – known in other states as pull tabs.

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Raffles starting in 1994

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Game Not Approved = Poker and Betting on Televised Horse Racing

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### Games of Chance Lead to NY Indian Gaming



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Under federal law, if a state regulates a gambling game – rather than banning it – federally recognized tribes can offer the game.

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NY has 8 recognized tribes.

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Since NY has authorized casino games as part of games of chance, the tribes can operate similar casino games.

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Currently 3 tribes operate 7 casino in NY. The Seneca Nation and the Onondas have 3 each. The Saint Regis Mohawk tribe has one casino.

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### Casino Gambling (2013)



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State authorizes up to 7 private commercial casinos as a result of referendum in 2013.

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Law authorizes 4 in upstate New York. Casinos have opened in Schenectady, the Catskills, Tioga County and by the Finger Lakes.

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They do have sports gambling - but only on premises.






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3 Licenses remain, but under current law, casino moratorium until 2023. Battle for what happens in downstate NY.

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## Legislative Issues for 2020



-  Gaming Commission planning on a firm to do overall review of gaming policy.
-  Sports gambling – Does it go mobile in 2020? Who gets to offer it? Does someone develop a new constitutional referendum?
-  When will downstate full casinos come to NY?
-  How do you deal with the Seneca Nation and its refusal thus far to make exclusivity payments to NY?
-  Do you authorize more lottery games via the Internet?

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## Specific Fundraising Issues

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Bingo

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Las Vegas Nights – basically small casinos

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Bell Jar Tickets – Essentially scratch off –tickets inside a club

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Raffles

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## Common Issues

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Only certain groups – Charity, religious - Non-profit.

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One year in existence.

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Age requirements. Now have to be 18 to play all games – before bingo did not have an age requirement. Over 16 can help with site.

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Dual licensing –from municipality and the state.

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Maximum bets and maximum prizes.

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Proceeds to organization

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Members must conduct the program.

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## Running Bingo Games



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Not all that difficult to conduct once you get used to it. But the money just isn't there any longer. Hard to raise funds from bingo.

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Many organization don't have good facilities. Need to check with other facilities and commercial lessors.

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Very significant compliance issues in terms of dealing with State

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## Las Vegas Nights

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Very difficult to run.

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Need an incredible amount of expertise to run these games.

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Need a ton of cash on hand.


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Very hard to do when you need your members to operate the game.


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Major compliance problems.

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## Bell Jars



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Basically instant tickets sold in a facility where the organization is headquartered. (Elks Club halls)

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So-called because they're traditionally sold from a bell jar.

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Were once extremely successful. But competition especially from the Lottery has changed this.

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Still a decent source of revenue.

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## Raffles Legalized in 1994

- 1. Raffle ticket sales and drawings may only be conducted in a municipality that has passed a games of chance local law.
- 2. Raffle tickets may not be sold online or through the mail. But future may change. Legislature authorized it in 2017.
- 3. Only members of the organization may assist with the conduct of raffles, and no one may be under the age of 18.
- 4. Alcohol may not be awarded as a raffle prize. This includes gift cards to liquor stores.
- 5. Raffle prize winners need not be present to win.

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## More Raffles



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Can sell off premises in municipalities in same county if the municipality has a GOC law. – unless municipality objects.

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Can sell off premises in municipalities in contiguous counties if the municipality has a GOC law. – unless municipality objects.

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Self-reporting for smaller raffles with net proceeds less than \$30,000 per year or \$5,000 per occasion.. No need for filing with state or municipality.

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Maybe Internet sales in future.

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Poker



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Only allowed in casinos.

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In NJ, casino-run Internet poker authorized.

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Other than social poker, not authorized outside of casinos in NY.

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Never been authorized as a game of chance.

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Never been authorized as a game a game of skill by legislature.

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If you run poker to raise revenue for your organization, you need a sympathetic DA

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Ask for Help

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- If you're thinking of using gambling to raise revenue, ask the Gaming Commission for help. The rules are especially difficult and tricky. Bureaucratic Bewilderment. Don't do it before calling the **Gaming Commission**.
- (518) 388-0210.

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