

Kentucky can't afford to wait for a constitutional amendment

During the 2009 special legislative session, Kentucky Attorney General Jack Conway determined that if the Kentucky General Assembly enacted a law allowing the Kentucky Lottery Corporation to operate the video lottery terminals (VLTs) at race tracks, then it would not be necessary to amend the Kentucky Constitution. Instead, as permitted by the 1988 constitutional amendment that legalized the Kentucky Lottery, the General Assembly can restrict or expand the types of games offered by the Kentucky Lottery Corporation.

Basically, this means that the Kentucky General Assembly has the ability, and the authority, to pass legislation that would legalize the operation of VLTs at race tracks, so an additional constitutional amendment—and another statewide vote—isn't necessary to legalize VLTs.

Opponents continue to claim that a constitutional amendment is necessary, despite the Attorney General's opinion and the fact that every state that has legalized expanded gaming by taking the statutory approach has had its legislation upheld in court challenges.

That's a good thing, because a constitutional amendment wouldn't show up on the ballot for a statewide vote until the fall of 2010, it would be at least 2012 before any meaningful number of VLTs would make their way into race tracks. That's three years of continued job losses, revenue depletion and industry migration. Kentucky's equine industry can't afford for that to happen, because Kentucky's racing circuit can't just be rejuvenated over night if it's broken. It would take years to restore. Unfortunately, the damaging effects of competing states are already evident:

- Horses are leaving Kentucky in favor of states that offer higher purses and breeder incentive programs fueled by expanded gaming. Based on responses from 44 of Kentucky's Thoroughbred farms, a total of 526 mares have shipped out of Kentucky since 2008. A majority of these mares were sent to Pennsylvania, Indiana, New York or Louisiana.
- Ellis Park, whose 2009 summer meet was cut in half due to competition from Indiana tracks supported by gaming revenue, is in danger of closing as early as next year even though Friday racing was recently added back to the card.

- Churchill Downs cut seven racing days from its spring schedule, because its purses were unable to attract enough horses to fill racing cards.
- Keeneland's fall 2009 meet will see stakes purses reduced by \$275,000, as compared to last fall.

Expanded gaming at Kentucky race tracks would create jobs, keep our tracks competitive, attract tourists and ensure the future viability of the Kentucky horse industry. This is about protecting Kentucky's signature industry, not about protecting the interest of out-of-state casinos that will spend tens of millions of dollars to kill a VLT statewide referendum vote if we sit back and allow the measure to pass only as a constitutional amendment.

Simply put, the Kentucky legislature needs to act quickly—and act now—to solve this very real financial threat to Kentucky's signature horse industry. The logic overwhelmingly says to do it, the economics overwhelmingly say to do it and the feasibility overwhelmingly says that it can be done. All that's left is the political will to do it.