WEST VIRGINIA CODE: §19-23-12B

§19-23-12b. Televised racing days; merging of pari-mutuel wagering pools.

(a) For the purposes of this section:

(1) "Televised racing day" means a calendar day, assigned by the commission, at a licensed racetrack on which pari-mutuel betting is conducted on horse or dog races run at other racetracks in this state or at racetracks outside of this state which are broadcast by television at a licensed racetrack and which day or days have had the prior written approval of the representative of the majority of the owners and trainers who hold permits required by section two of this article; and

(2) "Host racing association" means any person who, pursuant to a license or other permission granted by the host governmental entity, conducts the horse or dog race upon which wagers are placed.

(b) A licensee conducting not less than two hundred twenty live racing dates for each horse or dog race meeting may, with the prior approval of the state Racing Commission, contract with any legal wagering entity in this state or in any other governmental jurisdiction to receive telecasts and accept wagers on races conducted by the legal wagering entity: Provided, That at those thoroughbred racetracks the licensee, in applying for racing dates, shall apply for not less than two hundred ten live racing dates for each horse race meeting: Provided, however, That at those thoroughbred racetracks that have participated in the West Virginia thoroughbred development fund for a period of more than four consecutive calendar years prior to December 31, 1992, the licensee may apply for not less than one hundred fifty-nine live racing dates during the calendar year 1997. If, thereafter, for reasons beyond the licensee's control, related to adverse weather conditions, unforeseen casualty occurrences or a shortage of thoroughbred horses eligible to compete for purses, the licensee concludes that this number of racing days cannot be attained, the licensee may file a request with the Racing Commission to reduce the authorized live racing days. Upon receipt of the request the Racing Commission shall within seventy-two hours of the receipt of the request notify the licensee and the representative of a majority of the owners and trainers at the requesting track and the representative of the majority of the mutuel clerks at the requesting track that such request has been received and that if no objection to the request is received within ten days of the notification the request will be approved: Provided further, That the commission shall give consideration to whether there existed available unscheduled potential live racing dates following the adverse weather or casualty and prior to the end of the race meeting which could be used as new live racing dates in order to maintain the full live racing schedule previously approved by the Racing Commission. If an objection is received by the commission within the time limits, the commission shall, within thirty days of receipt of such objection, set a hearing on the question of reducing racing days, which hearing shall be conducted at a convenient place in the county in which the requesting racetrack is located. The commission shall hear from all parties concerned and, based upon testimony and

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documentary evidence presented at the hearing, shall determine the required number of live racing days: And provided further, That the commission shall not reduce the number of live racing days below one hundred eighty-five days for a horse race meeting unless the licensee requesting such reduction has: (i) Filed with the commission a current financial statement, which shall be subject to independent audit; and (ii) met the burden of proving that just cause exists for such requested reduction in live racing days. The telecasts may be received and wagers accepted at any location authorized by the provisions of section twelve-a of this article. The contract must receive the approval of the representative of the majority of the owners and trainers who hold permits required by section two of this article at the receiving thoroughbred racetrack.

(c) The commission may allow the licensee to commingle its wagering pools with the wagering pools of the host racing association. If the pools are commingled, the wagering at the licensee's racetrack must be on tabulating equipment capable of issuing pari-mutuel tickets and be electronically linked with the equipment at the sending racetrack. Subject to the approval of the commission, the types of betting, licensee commissions and distribution of winnings on pari-mutuel pools of the sending licensee racetrack are those in effect at the licensee racetrack. Breakage for pari-mutuel pools on a televised racing day must be calculated in accordance with the law or rules governing the sending racetrack and must be distributed in a manner agreed to between the licensee and the sending racetrack. For the televised racing services it provides, the host racing association shall receive a fee to be paid by the receiving licensee racetrack which shall be in an amount to be agreed upon by the receiving licensee racetrack and the host racing association.

(d) The commission may assign televised racing days at any time. When a televised racing day is assigned, the commission shall assign either a steward or an Auditor to preside over the televised races at the licensee racetrack.

(e) (1) From the licensee commissions authorized by subsection (c) of this section, the licensee shall pay one tenth of one percent of each commission into the General Fund of the county, in which the racetrack is located and at which the wagering occurred and there is imposed and the licensee shall pay, for each televised racing day on which the total pari-mutuel pool exceeds $100,000, the greater of either: (i) The total of the daily license tax and the pari-mutuel pools tax required by section ten of this article; or (ii) a daily license tax of $1,250. For each televised racing day on which the total pari-mutuel pool is $100,000, the licensee shall pay a daily license tax of $500 plus an additional license tax of $100 for each $10,000, or part thereof, that the pari-mutuel pool exceeds $50,000, but does not exceed $100,000. The calculation of the total pari-mutuel pool for purposes of this subsection shall include only one half of all wagers placed at a licensed racetrack in this state on televised races conducted at another licensed racetrack within this state. Payments of the tax imposed by this section are subject to the requirements of subsection (e), section ten of this article.

(2) From the licensee commissions authorized by subsection (c) of this section, after payments are made in accordance with the provisions of subdivision (1) of this subsection, the licensee shall pay, for each televised racing day, one fourth of one percent of the total

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pari-mutuel pools for and on behalf of all employees of the licensed racing association by making a deposit into a special fund to be established by the Racing Commission and to be used for payments into the pension plan for all employees of the licensed racing association.

(3) From the licensee commissions authorized by subsection (c) of this section, after payments are made in accordance with the provisions of subdivisions (1) and (2) of this subsection, thoroughbred licensees shall pay, one-half percent of net simulcast income and for each televised racing day on or after July 1, 1997, an additional five and one-half percent of net simulcast income into the West Virginia thoroughbred development fund established by the Racing Commission according to section thirteen-b of this article: Provided, That no licensee qualifying for the alternate tax provisions of subsection (b), section ten of this article shall be required to make the payments unless the licensee has participated in the West Virginia thoroughbred development fund for a period of more than four consecutive calendar years prior to December 31, 1992. For the purposes of this section, the term "net simulcast income" means the total commission deducted each day by the licensee from the pari-mutuel pools on simulcast horse or dog races, less direct simulcast expenses, including, but not limited to, the cost of simulcast signals, telecommunication costs and decoder costs.

(f) After deducting the tax and other payments required by subsection (e) of this section, the amount required to be paid under the terms of the contract with the host racing association and the cost of transmission, the horse racing association shall make a deposit equal to fifty percent of the remainder into the purse fund established under the provisions of subdivision (1), subsection (b), section nine of this article. After deducting the tax and other payments required by subsection (e) of this section, dog racetracks shall pay an amount equal to two tenths of one percent of the daily simulcast pari-mutuel pool to the "West Virginia Racing Commission Special Account-West Virginia Greyhound Breeding Development Fund".

(g) The provisions of the "Federal Interstate Horseracing Act of 1978", also known as Public Law 95-515, Section 3001-3007 of Title 15, U.S. Code, as amended, controls in determining the intent of this section.

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