WEST VIRGINIA CODE: §19-23-12d

§19-23-12d. Simulcast races and pari-mutuel wagering at authorized gaming facility in historic resort hotel.

(a) Definitions. -– In addition to the words and phrases defined in section three of this article, the words and phrases defined in subsection (b) of this section have the meanings provided in that subsection when used in this section, unless the context in which the term or phrase is used clearly indicates that a different meaning is intended.

(b) Defined words and phrases. --

(1) "Applicant" means any gaming licensee who is licensed under article twenty-five, chapter twenty-nine of this code, applying for a license under this section to conduct pari-mutuel wagering on televised horse and dog races.

(2) "Designated pari-mutuel wagering area" means one or more specific areas of an existing historic resort hotel within which the Racing Commission has authorized the gaming licensee to offer pari-mutuel wagering to patrons of the hotel.

(3) "Gaming facility" means a designated area on the premises of an existing historic resort hotel in which pari-mutuel wagering is conducted by a gaming licensee.

(4) "Gaming licensee" means the licensed operator of a gaming facility under article twenty-five, chapter twenty-nine of this code, who is also licensed under this article to offer pari-mutuel wagering on simulcast horse or dog races or on both types of races.

(5) "Historic resort hotel" means a historic resort hotel as defined in section two, article twenty-five, chapter twenty-nine of this code.

(6) "In-state host track" means a racetrack within this state licensed to conduct horse or dog race meetings at which pari-mutuel wagering is conducted and which is an in-state sending track.

(7) "In-state sending track" means a racetrack in this state licensed under this article to conduct horse or dog race meetings at which pari-mutuel wagering is conducted and which is equipped to conduct simulcasting of those races and intertrack pari-mutuel wagering on those races.

(8) "In-state track" means an in-state host track or an in-state sending track.

(9) "Interstate common pool" means a pari-mutuel pool established within this state or in another state or foreign nation within which is combined comparable pari-mutuel pools of one or more receiving legal wagering entities located in one or more states or foreign nations upon a race at a sending track located within or outside of this state for the purpose

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of establishing payoff prices in the various jurisdictions.

(10) "Intertrack wagering" means parimutuel wagering on simulcast horse or dog races held at an in-state sending track by patrons at a gaming facility licensed under this section and the electronic transmission of the wagers to the in-state sending track.

(11) "License" means a license issued by the Racing Commission pursuant to this section, including:

(A) A license to operate a gaming facility in which pari-mutuel wagering on simulcast races will be available to patrons;

(B) A license to be employed in connection with the operation of a gaming facility at which pari-mutuel wagering is offered on simulcast races; or

(C) A license to provide management services under a contract to a gaming facility licensed under this article.

(12) "Licensed gaming facility employee" means any individual licensed or registered to be employed by a gaming licensee in connection with the operation of a pari-mutuel wagering pursuant to this section.

(13) "Out-of-state host track" means a racetrack in a jurisdiction other than this state, the operator of which is lawfully permitted to conduct a horse or dog race meeting and which conducts horse or dog races upon which pari-mutuel wagers may be placed.

(14) "Out-of-state track" means an out-of-state host track or an out-of-State sending track.

(15) "Out-of-state sending track" means a racetrack in a jurisdiction other than the State of West Virginia which is lawfully permitted to conduct a horse or dog race meeting and to provide simulcast horse or dog races to a racetrack in this state.

(16) "Participation agreement" means the written contract that provides for the establishment or implementation of simulcasting of horse or dog races and pari-mutuel wagering. Each contract shall set forth the manner in which the pari-mutuel wagering system shall be managed, operated and capitalized, as well as how expenses and revenues shall be allocated and distributed by and among the licensed gaming facility under this section and the other eligible participants in the contract.

(17) "Premises of an existing historic resort hotel" means the historic resort hotel, attachments of the historic resort hotel, and the traditional, immediate grounds of the historic resort hotel.

(18) "Receiving gaming facility" means a licensed racetrack or authorized gaming facility within this state licensed under this article which is equipped to receive simulcast horse and dog races and to conduct intertrack or interstate wagering on those races.

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(19) "Simulcast horse or dog races" means horse or dog races conducted at an in-state sending track or an out-of-state sending track, as the case may be, and transmitted simultaneously by picture to the authorized gaming facility licensed under this section or other legal wagering facility.

(20) "Simulcasting" means the simultaneous audio or visual transmission of horse or dog races conducted at in-state and out-of-state racetracks to the gaming facility licensee under this section and pari-mutuel wagering on the results of those races.

(c) Application for license. –- An applicant who is licensed under article twenty-five, chapter twenty-nine of this code may apply to the West Virginia Racing Commission for a license to conduct at the historic resort hotel pari-mutuel wagering on simulcast horse and dog races held at a licensed racetrack in this state, or in another jurisdiction, where pari-mutuel wagering is permitted and conducted. The application shall be submitted in the form prescribed by the commission and provide the information required by the commission.

(d) Issuance of license. –- Within sixty days after an application is filed pursuant to subsection (b) of this section, the Racing Commission shall act on the application and either grant or deny the application: Provided, That issuance of the license shall not be unreasonably withheld. Once issued, the license shall expire, be renewed, revoked or suspended on the same basis as licenses issued under this article to racetracks to hold live racing and conduct pari-mutuel wagering.

(e) Transmission of races from in-state sending tracks. -– An in-state sending track may transmit to a gaming licensee under this section all or some of the live races conducted at the racetrack. (f) Receipt of simulcasts transmitted from out-of-state tracks. –- The gaming licensee under this section may, in accordance with this article, and any applicable rules of the Racing Commission and with the approval of the commission, receive at the facility simulcast horse or dog races, or both, conducted at out-of-state sending tracks.

(g) Payments to sending track. – The authorized gaming facility receiving a simulcast horse or dog race from an out-of-state sending track shall pay to the out-of-state sending track for the transmission such amount, if any, as may be agreed upon by the authorized gaming facility and the out-of-state sending track. The authorized gaming facility accepting pari-mutuel wagers on a horse or dog race conducted at an out-of-state host track shall pay to the out-of-state host track such amount, if any, as provided for in the agreement, if any, between the authorized gaming facility and the out-of-state host track.

(h) Conditions for participation by out-of-state tracks; interstate common pools. --

(1) Except as provided in subdivision (2) of this subsection, the Racing Commission shall not permit an out-of-state sending track or an out-of-state host track to participate in simulcast pari-mutuel wagering or qualify as an out-of-state host track, respectively, unless the pari-mutuel pools respecting the authorized gaming facility under this article are combined with comparable pari-mutuel pools at the out-of-state track. The types of wagering, takeout,

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distribution of winnings, rules of racing, method of calculating breakage, and the percentage of deposits remaining undistributed from a pari-mutuel pool after payment is made to winning ticket holders shall be determined in accordance with the law or policy applicable to the out-of-state track.

(2) With the prior approval of the Racing Commission and the concurrence of the out-of-state track, an authorized gaming facility under this article and receiving tracks or entities in other states other than the state in which the out-of-state track is located may form an interstate common pool. With respect to such interstate common pools, the Racing Commission may approve types of wagering, takeout, distribution of winnings, rules of racing, method of calculating breakage, and a percentage of deposits remaining undistributed from a parimutuel pool after payment is made to winning ticket holders which are different from those which would otherwise be applied in this state but which are consistent for all parties to the interstate common pool.

(i) Licensing or registration of persons conducting wagering-related activities. -– All persons engaged in conducting wagering-related activities at the authorized gaming facility licensed under this section, whether employed directly by the licensee or by a person or entity conducting or operating the simulcast racing and pari-mutuel wagering facility under an agreement with the licensee, shall be licensed or registered in accordance with such rules as may be promulgated by the Racing Commission. All other employees at the simulcast racing and pari-mutuel wagering facility shall be licensed or registered in accordance with regulations of the Racing Commission: Provided, That when the employee is licensed by the Lottery Commission, that employee must register with the Racing Commission is not required to have a separate license issued by the Racing Commission. The Racing Commission shall has the authority to promulgate rules, regulations and conditions under which all such licenses are issued, or registrations made, in this state and to revoke or refuse to issue a license, or revoke or refuse to accept a registration, if in the opinion of the commission the revocation or refusal is in the public interest: Provided, That the rules, regulations and conditions are uniform in their application to both the gaming facility licensed under this section and racetracks licensed under this article to hold race meetings at which pari-mutuel wagering is conducted. The fees under this subsection may not be in excess of the fee charge for a similar occupational permit or license at a licensed racetrack.

(j) Retainage of gaming licensee. -– The gaming licensee under this section shall retain from pari-mutuel wagers a basic commission of seventeen and twenty-five one-hundredths percent on horse races and a basic commission of sixteen and twenty-five one-hundredths percent on dog races. Breakage shall be calculated and distributed in the manner provided in subsection (c), section nine of this article.

(k) Payments by the licensee. -– Out of the commission retained or deducted by a gaming licensee under the provisions of subsection (j) of this section, the gaming licensee shall pay:

(1) One-tenth of one percent into the General Revenue Fund of county commission of the county in which the historic resort hotel is located;

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(2) Each day, the daily pari-mutuel pools tax calculated under section ten of this article; and

(3) The amount required to be paid under the terms of a contract with a host licensed racing association in this state or in another jurisdiction that permits pari-mutual wagering on horse or dog races held or conducted in that jurisdiction.

(l) After making the payments required by subsection (k) of this section, the remaining balance may be retained by the gaming licensee under this section.

(m) Compliance with federal law. -– The federal Interstate Horseracing Act of 1978, P. L. 95-515, 15 U.S.C. §§3001-3007, is instructive as the legislative intent of this section.

(n) Promulgation of rules. -– The Racing Commission shall promulgate rules in accordance with article three, chapter twenty-nine-a of this code, it deems necessary to implement and efficiently administer this section: Provided, That the rules are to be consistent with the rules promulgated for pari-mutuel wagering on televised races at the racetracks.

(o) Pari-mutuel wagers and equipment exempt from sales tax. -– Notwithstanding any provision of this code to the contrary, the license tax imposed in section ten of this article shall be in lieu of payment of the tax imposed by article fifteen, chapter eleven of this code, on pari-mutuel wagering and on the purchase of equipment, services and supplies directly used in pari-mutual wagering under this section.

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