WEST VIRGINIA CODE: §19-23-8A

PART V-A. SUNDAY RACING.

§19-23-8a. Applications for Sunday racing; local option election procedures; protest procedures against approval.

(a) A racing association licensed under the provisions of section one of this article and operating a horse or dog race track in a county may make application for permission to conduct horse or dog racing on Sunday, between the hours of one p.m. and six p.m., local time.

Such application shall be filed with the Racing Commission. The Racing Commission shall prescribe blank forms to be used in making such application.

The Racing Commission, if it finds such application to be in order, may grant tentative approval of such application and, if it grants tentative approval of the application, shall prepare and publish a notice to the public that the Racing Commission has granted tentative approval of the application, that the Racing Commission solicits public comment from the citizens of the county and will hold a public hearing in the county on a date specified in the notice in the county wherein the horse racing track or dog racing track is located, that the Racing Commission shall take such comment into consideration in deciding whether or not to grant or deny final approval, and that the Racing Commission will make final approval of such application at the expiration of sixty days from the date of the first publication of such notice, which date shall be specified in said notice, unless within that time in accordance with subsection (c) of this section, the county commission of the county in which such race track is located shall order an election. Such notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the race track is located: *Provided,* That prior to granting final approval hereunder, the Racing Commission shall solicit public comment from the citizens of the county, and hold a public hearing in the county on a date specified in the hearing notice specified above, in the county wherein the horse racing track or dog racing track is located and shall take such comment into consideration in deciding whether or not to grant final tentative approval. If no such election is ordered, the Racing Commission shall proceed to consider final approval of the application.

(b) The county commission shall, upon the written petition of qualified voters residing within the county equal to at least fifteen percent of the number of persons who voted in that county in the next preceding general election, received within the period specified in subsection (a) of this section, which petition may be in any number of counterparts, order an election to determine whether it is the will of the voters of said county that racing be permitted on Sundays in said county, which election shall be held at the next primary or general election held in such county. The Racing Commission shall permit such racing

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pending certification of the results of the election.

(c) If such election is ordered, the county commission shall give notice of such election by publication of such notice as a Class II-0 legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code. Such notice shall be published within twenty-one consecutive days next preceding the date of said election.

(d) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the West Virginia Racing Commission be authorized to approve horse racing on Sundays between the hours of one p.m. and six p.m. in _____ County, West Virginia?

/_/ Yes /_/ No

(Place a cross mark in the square opposite your choice.)"

In a county in which dog racing is conducted, the term "dog racing" shall be substituted for "horse racing" on the ballot or ballot label.

(e) Each individual qualified to vote in said county shall be qualified to vote at such election. The votes in said election shall be counted and returns made by the election officers and the results certified by the commissioners of election to said county commission, which shall canvass the ballots, all in accordance with the laws of this state relating to general elections insofar as the same are applicable. The county commission shall, without delay, canvass the votes cast at such election and certify the results thereof to the Racing Commission, and shall transmit a certified copy of said results to the Secretary of State.

(f) After the certification of the results of such election, the Racing Commission shall: (1) Grant final approval of an application for a license which contains racing dates which fall on Sunday if a majority of the voters voting at such election vote yes, and on such racing dates all racing and other activities authorized by this article shall be lawful, any other provisions of this code to the contrary notwithstanding; or (2) deny final approval of an application for a license which contains racing dates which fall on Sunday if less than a majority of the voters voting at such election vote yes.

(g) After an election to determine whether it is the will of the voters of said county that racing be permitted on Sundays in said county, another election on such issue shall not be held for a period of five years.

(h) After five years from such final approval, it shall be the duty of the county commission upon a petition in writing of qualified voters residing within the county equal to at least fifteen percent of the number of persons who voted in that county in the next preceding general election, which petition may be in any number of counterparts, to order an election to determine whether it is the will of the voters of said county that racing on Sundays be

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discontinued in said county. The provisions of subsections (c) and (e) of this section shall govern said election. The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall racing of horses on Sunday in _____ County, West Virginia, be discontinued?

/_/ Yes /_/ No

(Place a cross mark in the square opposite your choice.)"

In a county in which dog racing is conducted, the word "dogs" shall be substituted for "horses" on the ballot or ballot label. If it be the will of a majority of the voters of said county that Sunday racing be discontinued in said county, it shall be the duty of the Racing Commission thereafter, for a period of at least five years and until a subsequent election shall otherwise direct, to deny applications to race on Sundays in said county.

(i) Upon the written petition of qualified voters residing within the county equal to at least thirty percent of the number of persons who voted in that county in the next preceding general election, which petition may be in any number of counterparts, presented to the Racing Commission within sixty days after the expiration of such publication protesting against such tentative approval, the approval may not become effective and another petition may not be filed for a period of five years.

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