WEST VIRGINIA CODE: §19-23-8B

§19-23-8b. Horse or dog racing after six o'clock postmeridian on Sundays; application therefor; tentative approval; publication of notice; petition for local option election; local option election procedure; effect of such election.

(a) Notwithstanding any other provisions of this code to the contrary, a racing association licensed under the provisions of section one of this article and operating a horse or dog racetrack in a county in which Sunday racing has been approved under provisions of section eight-a of this article may make applications to the Racing Commission for permission to conduct horse or dog racing after the hour of six o'clock postmeridian on Sundays.

(b) 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, shall prepare and publish a notice to the public and that the Racing Commission has granted tentative approval of the application and that the Racing Commission will make final confirmation 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 a petition for a local option election has been filed in accordance with subsection (c) of this section with the county commission of the county in which such racetrack is located. 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 racetrack is located: Provided, That prior to granting tentative approval hereunder, the Racing Commission shall solicit public comment from the citizens of 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 tentative approval.

(c) The county commission, 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, which petition may be in any number of counterparts, shall order an election to determine whether it is the will of the voters of said county that racing be permitted after the hour of six o'clock postmeridian on Sundays in the county.

(d) No election to determine whether it is the will of the voters of a county that racing be permitted after the hour of six o'clock postmeridian on Sundays in the county may be held at a general or primary election or within sixty days of any such election or in conjunction with any other election.

(e) 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 after the hour of six p.m. in _____ County, West Virginia?

WV Legislature

[ ] 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.

(f) Each individual qualified to vote in the county is qualified to vote at the local option election. The votes in the local option election shall be counted and returns made by the election officers and the results certified by the commissioners of election to the 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 local option election and certify the results thereof to the Racing Commission and shall transmit a certified copy of the results to the Secretary of State.

(g) The Racing Commission shall, after the certification of the results of such local option election, thereafter approve an application for a license which contains racing dates which fall on Sunday for any hour or hours after six o'clock postmeridian if a majority of the voters voting at such local option election vote yes and on such racing dates all racing and other activities authorized by this article are lawful, any other provisions of this code to the contrary notwithstanding.

WV Legislature