

Rec., May 11

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ENROLLED BILL

(EXTRAORDINARY SESSION, 1933)

House Bill No. 21

(By Mr. Doringer)

Passed May 9, 1933

In Effect from Passage

Originated in the House
Takes effect from
Passage
Clerk of the House of Delegates
CORRECTLY ENROLLED

James L. Smith
Chairman House Committee
James O. Byrd
Chairman Senate Committee

ENROLLED BILL

(H. B. No. 21)

[Passed May 9, 1933: in effect from passage.]

AN ACT to provide revenue for the general school fund by the regulation, control and licensing of horse racing within the state of West Virginia; to vest with the commissioner of agriculture of the state of West Virginia the authority to regulate, control and issue licenses for such horse racing; prescribe his powers and duties; provide for salaries and expenses therefor; provide for the license fees to be charged and the taxes to be collected; provide for the operation of pari-mutuel machines in the conduct of horse racing in the state of West Virginia and to provide for the disposition of revenue derived from the same.

Be it enacted by the Legislature of West Virginia:

Section 1. The commissioner of agriculture of the state of West Virginia shall be vested with and possessed of the power and duties in this act specified, and also the powers necessary

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Chairman House Committee.

James A. Smith

Chairman Senate Committee.

4 and proper to enable him to carry out fully and effectively all
5 the purposes of this act. The jurisdiction, supervision, power
6 and duties of the commissioner shall extend, under this act, to
7 any and all persons, associations and corporations which shall
8 hereafter hold or conduct any horse race meeting within the
9 state of West Virginia whereat horse racing shall be permitted
10 for any stake, purse or reward.

Sec. 2. The commissioner of agriculture shall appoint a horse
2 racing secretary and such additional help as is necessary to ad-
3 minister all details of this department of horse racing in his
4 office. Salaries of such officials shall be fixed by the commissioner
5 of agriculture and shall be paid only from the funds in the hands
6 of the state treasurer collected from the license tax on pari-
7 mutuel machines. The entire expense of the administration of
8 this horse racing department shall, during the years one thou-
9 sand nine hundred thirty-three and one thousand nine hundred
10 thirty-four, not exceed ten per cent of the total amount paid
11 into the state treasury for license fees from said pari-mutuel
12 machines. For no year, after one thousand nine hundred
13 thirty-four, shall this expense exceed five per cent of the total
14 amount of fees paid into the state treasury.

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Sec. 3. All funds collected as taxes from the operation of
2 pari-mutuel machines, shall be paid directly to the treasurer
3 of the state of West Virginia and be deposited by him to the
4 credit of the general school fund of the state.

Sec. 4. No person or persons, association or corporation
2 shall hereafter hold or conduct any meeting within the state
3 of West Virginia whereat horse racing shall be permitted for any
4 stake, purse or reward, except under the direct supervision of
5 the commissioner of agriculture, who shall prescribe the rules
6 and regulations under which these horse races shall be conducted.
7 However, nothing in this act shall be construed to prevent, in
8 any way, the use of any grounds, enclosure or horse race track
9 owned and controlled by any license, for any local, county, or
10 state fair, agriculture or livestock exhibition, even though horse
11 racing be conducted thereat, when no betting, wagering, pool-
12 selling or gambling upon the result of the horse racing held
13 thereat is permitted with the knowledge or acquiescence of the
14 person, persons, association or corporation conducting the same
15 and when the pari-mutuel pool system of wagering is not con-
16 ducted.

Sec. 5. Any person or persons, association or corporation

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2 desiring to hold or conduct a horse race meeting within the state
3 of West Virginia and permit and conduct pari-mutuel pools, shall
4 apply to the commissioner of agriculture for a license to do so.
5 Such applications shall be filed with the commissioner of agri-
6 culture at least ten days prior to the first day of each horse race
7 meeting which said person, persons, association or corporation
8 proposes to hold or conduct. The commissioner of agriculture
9 shall prescribe blank forms to be used in making such appli-
10 cations. Such application shall specify the days upon which said
11 horse race meeting is to be conducted. It shall state the names of
12 the person or persons, association or corporation making such
13 application, the postoffice address of the applicant; the number
14 of days it is intended to hold or conduct such horse race meeting
15 (which shall be successive week days excluding Sundays) and
16 the location of the place of the track, or enclosure where it is
17 proposed to hold or conduct such horse race meeting and shall
18 supply such other data and information as the commissioner of
19 agriculture shall prescribe.

20 The commissioner of agriculture shall have the power and
21 authority to reject any application for a license for any cause
22 which he may deem sufficient. But if said license is refused or

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23 revoked said commissioner of agriculture shall publicly state
24 his reasons for so doing and said reasons shall be written in
25 full and attached to the application so refused, which shall, at
26 all times, be subject to inspection upon application of anyone
27 desiring so to do and said findings shall be subject to review of
28 the circuit court of the county having jurisdiction, with the
29 right to appeal to the supreme court of appeals in the manner
30 prescribed by general law.

Sec. 6. A person or persons, association or corporation licensed
2 by the commissioner of agriculture to conduct horse racing
3 and to permit and conduct pari-mutuel wagering under this act,
4 shall pay to the treasurer of the state of West Virginia a license
5 tax therefor, equal to three per cent of the total contribution
6 to all pari-mutuel pools conducted or made at any and every
7 horse race meeting licensed under this act. Said payments shall
8 be made after the last horse race on each and every day of each
9 and every horse race meeting and shall be made from all con-
10 tributions to all pari-mutuel pools to each and every horse race
11 of the day.

12 There shall likewise be levied and collected a tax of five per
13 cent on each and every winning ticket, which amount shall be

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Wm. A. Dwyer
Chairman Senate Committee.

14 retained by the racing association and paid over together with
15 the three per cent gross proceeds as provided for in this section.

16 The commissioner of agriculture shall, if he so elects, require
17 a bond or other adequate security to insure the payments of the
18 license fees for the first four days of said aforementioned
19 meetings and may likewise require a bond or other security for
20 subsequent days, such bond, however, to cover not more than
21 four successive days.

Sec. 7. A person or persons, association or corporation
2 licensed by the commissioner of agriculture, shall permit only
3 the pari-mutuel system of wagering within their enclosure at
4 which horse racing is held and the commission deducted from the
5 said pari-mutuel pools shall not exceed ten per cent, including the
6 three per cent license fee, of the gross amount handled and the
7 breaks shall be made and calculated on the dime. *Provided, how-*
8 *ever,* That no holder of such license shall permit or allow any
9 person under the age of twenty-one years to wager thereat,
10 knowing or having reason to believe that such person is under
11 the age of twenty-one years. Any violation of this rule shall be
12 punishable by revocation of license.

13 A supervisor of pari-mutuel pools shall be appointed by the

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James A. Stynes

James E. Smith

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14 commissioner of agriculture and shall be compensated by said
15 commissioner of agriculture. Said supervisor shall have free
16 access to the space or enclosure where the pari-mutuel pool
17 system of wagering is conducted or supervised at any horse race
18 meeting to which he shall be assigned for the purpose only of
19 ascertaining whether or not said licensee is retaining only the
20 commission provided for in said section. He shall also for the
21 same purpose only, have full and free access to all books, records
22 and papers pertaining to such pari-mutuel pool system of
23 wagering and shall report to the commissioner of agriculture in
24 writing, under oath, whether or not the licensee has retained any
25 commissions in excess to those permitted under this section.

Sec. 8. Any person aiding or abetting in the conduct of any
2 meeting in the state of West Virginia at which racing and
3 wagering on the same is permitted, except in accordance with a
4 license duly issued and not revoked and not suspended by the
5 commissioner of agriculture shall be guilty of a misdemeanor
6 and, upon conviction, shall be punished by a fine of not less than
7 five thousand dollars and not more than ten thousand dollars
8 for each day of such unauthorized meeting, or by imprison-

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9 ment not exceeding one year or by both fine and imprisonment
10 in the discretion of the court.

Sec. 9. The license tax herein imposed shall be in lieu of all
2 other license, income, excise, special or franchise taxes to the
3 state of West Virginia and no county, city, town, municipality
4 or other municipality or other political subdivision of the state
5 of West Virginia shall be authorized or empowered to levy or
6 impose any license, income, excise, special or franchise tax on
7 any such person, persons, association or corporation engaged
8 in the business of conducting a meeting at which horse races are
9 run for stakes, purses or reward under the jurisdiction of and
10 being licensed by the commissioner of agriculture, or on the
11 operation or maintenance of any pari-mutuel machine or similar
12 device or on the sale of any commodity during a meeting at which
13 horse races are run or at any such horse race track.

Sec. 10. Section one, article ten, chapter sixty-one of the
2 code of West Virginia, one thousand nine hundred thirty-one,
3 relating to gaming tables and devices, shall not apply to the
4 pari-mutuel pool system of wagering, in manner and form, as
5 provided for in this act, at any meeting within the state of
6 West Virginia, whereat horse racing shall be permitted for any

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Chairman Senate Committee.

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7 stake, purse or reward, by any person, persons, association or
8 corporation having a license for the holding or conducting of
9 such meeting as provided by this act.

Sec. 11. Definitions and explanations of certain technical
2 terms and words used in this act are as follows:

3 "Pari-mutuel" is a French word meaning "a mutuel or col-
4 lective pool that can be divided among those who have con-
5 tributed their wagers to one central agency, the odds to be
6 reckoned in accordance to the collective amounts wagered upon
7 each contestant running in a horse race upon which the pool is
8 made, but the total to be divided among the first three contestants
9 on the basis of the number of wages on these." A pool is what
10 the dictionary describes it: "A combination of interests in a
11 joint wagering enterprise; of a stake in such enterprise." In
12 the division of a pool there occur percentages left over. This
13 is known as "legitimate breakage." "To the dime" is defined to
14 mean that wagers shall be figured and paid to the dime.

15 All other acts, whether general or local, public or private, or
16 previous grants or franchises inconsistent with the provisions
17 of this act are hereby repealed.

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James L. Smith
Chairman Senate Committee.

James L. Smith
Chairman House Committee.

James L. Smith
Chairman House Committee.

Wm. H. Hines
Speaker of the House of Delegates.

James L. Smith
Clerk of the House of Delegates.

Wm. H. Hines
President of the Senate.

James L. Smith
Clerk of the Senate.

The within is.....

this.....day of....., 1933.

.....
Governor.

Filed in the office of the Secretary of State
of West Virginia. **MAY 18 1933**
Wm. S. O'BRIEN,
Secretary of State