

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

SENATE BILL No. 75

(By Mr. Rauss)



PASSED March 8, 1935

In Effect from Passage

95

ENROLLED

Senate Bill No. 75

(By Mr. ROUSS)

[Passed March 8, 1935; in effect from passage.]

AN ACT to amend and reenact chapters forty-seven and forty-eight, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, creating a West Virginia racing commission, to provide revenue for the general fund by the regulation and licensing of horse racing and the operation of the pari-mutuel system of wagering within the state.

Be it enacted by the Legislature of West Virginia:

That chapters forty-seven and forty-eight, acts of the Legislature of West Virginia, first extraordinary session, one thou-

sand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 1. There is hereby created the West Virginia racing
2 commission, which shall be a corporation and, as such, may
3 contract and be contracted with, and shall have a corporate
4 seal. Said commission shall have its principal office in the
5 state capitol at Charleston, and shall meet annually at its office
6 in the month of January, and at such other times and places as
7 shall be designated by its chairman. It shall also make and
8 publish annually a report to the governor of the business trans-
9 acted by it.

10 The commission shall consist of three members, not more than
11 two of whom shall at any one time belong to the same political
12 party. They shall be appointed by the governor by and with
13 the advice and consent of the Senate. The term of office of the
14 members of such commission shall be four years, except that
15 of the first appointees, one shall be appointed for two years,
16 one for three years and one for four years, and their appoint-
17 ments shall be made within twenty days after this bill shall
18 become effective, and their successors shall thereafter be ap-
19 pointed for terms of four years each. Said commission shall

20 have all the powers necessary to carry out fully and effectively
21 all the purposes of this act and shall have full power to pre-
22 scribe rules, regulations and conditions under which all races
23 shall be conducted within the state of West Virginia. The com-
24 mission may at any time for the violation of any rule or for any
25 fraudulent practices, require the removal of any official or em-
26 ployee employed by any licensee hereunder, and shall have
27 power to summon witnesses and to administer oaths or affirma-
28 tions to such witnesses and take testimony whenever in the
29 judgment of said commission it may be necessary for the dis-
30 charge of its duties. False swearing on the part of any witness
31 shall be deemed perjury and shall be punished as such.

Sec. 2. The compensation of the members of the commission
2 shall be fixed by the governor. The commission shall appoint
3 a secretary and steward to represent the commission, and such
4 additional help as shall be necessary to administer the details
5 provided for in this act, and shall fix their compensation and
6 actual expenses, and the compensation and actual expenses of
7 the members of the commission, shall be paid from the funds
8 in the hands of the state treasurer collected from the license
9 tax on pari-mutuel wagering when not otherwise provided in

10 the budget; but no such expenses shall be paid unless an itemized
11 account thereof, under oath, be first filed with the state auditor.

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

Sec. 4. No person shall hereafter hold or conduct any horse
Jr. (3 racing shall be permitted for any stake, purse or reward except
2 race meeting within the state of West Virginia whereat horse
4 under the license of the West Virginia racing commission. How-
5 ever, nothing in this act shall be construed to prevent in any
6 way the use of any grounds, enclosure, or race track owned
7 and controlled by any person for any local, county or state
8 fair, agriculture or live stock exposition, even though racing
9 be conducted thereat, when no wagering or pool selling upon
10 the result of the racing so held thereat is permitted within the
11 knowledge or acquiescence of the person conducting the same
12 and when the pari-mutuel pool system of wagering is not con-
13 ducted.

Sec. 5. Any person desiring to conduct a horse race meeting
2 within the state of West Virginia and to permit or conduct

3 pari-mutuel pools shall apply to the West Virginia racing com-
4 mission for a license to do so. Such application shall be filed
5 with the commission at least thirty days prior to the first day of
6 each horse race meeting which said person proposes to hold or
7 conduct. The commission shall prescribe blank forms in making
8 such applications. Such application shall specify the days upon
9 which said race meeting is to be conducted. It shall state the
10 name of the person making such application, the post office ad-
11 dress of the person making such application, the number of days
12 he intends to hold or conduct such meeting (which shall be
13 successive week days, excluding Sundays,) and the location of
14 the place or track or enclosure where he proposes to hold or
15 conduct such race meeting, and shall supply such other data and
16 information as the commission shall prescribe.

17 Within ten days after the filing of such application with the
18 commission, the commission shall grant or reject any application
19 for a license for any cause deemed by it sufficient. If said
20 license is refused, said commission shall publicly state its reasons
21 for the refusal, and said reasons shall be written in full and
22 attached to the application so refused, which refusal and reasons
23 for same shall, at all times, be subject to inspection upon appli-

24 cation of anyone desiring to inspect same. Said findings shall
25 be subject to review by mandamus in any court of this state
26 having jurisdiction, with the right to appeal to the supreme
27 court of appeals in the manner prescribed by law.

Sec. 6. A person operating any horse race track one mile
2 or more in length shall pay for each day upon which horse races
3 are run a license tax of five hundred dollars; any race track
4 less than one mile in length shall pay for each day upon which
5 horse races are run a license tax of two hundred fifty
6 dollars: *Provided, however,* That the per diem tax shall not
7 apply to horse shows or county fairs at which racing is con-
8 ducted for not more than four days. Any person licensed by
9 the commission to conduct racing and to permit and conduct
10 pari-mutuel wagering under this act, shall in addition to the
11 aforementioned tax, pay to the racing commission of the state
12 of West Virginia a tax therefor of one per cent of the total
13 contribution to all pari-mutuel pools conducted or made at any
14 and every race meeting licensed under this act. Said pay-
15 ments shall be made to the commission or its agent after the
16 last race on each day and every day of each and every race
17 meeting, and shall be made from all contributions to all pari-

18 mutuel pools to each and every race of the day, which payments
19 shall be deposited with the treasurer of the state of West
20 Virginia.

21 Any person making application for a license for a meeting
22 to be held on any track in the state of West Virginia, shall,
23 when required, furnish satisfactory evidence to the commis-
24 sion of his or their ability to pay license fees, purses, salaries
25 of officials and other expenses incident to the meeting. In
26 the event the applicant is not able to furnish such satisfactory
27 evidence of his or their ability to pay such expenses and fees,
28 then the commission may require bond or other adequate se-
29 curity for not more than four successive days before such
30 license is issued.

Sec. 7. A person licensed by the commission shall permit only
2 the pari-mutuel system of wagering within the enclosure at
3 which horse racing is held, and the commission deducted by the
4 licensee from the said pari-mutuel pools shall not exceed ten per
5 cent of the total pari-mutuel pools for the day, including the
6 license fee of the gross amount handled hereinbefore provided
7 for, and the breakage, which shall be made and calculated to the
8 dime: *Provided, however,* That no holder of such license shall

9 permit or allow any person under the age of twenty-one years
10 to wager thereat, knowing or having reason to believe that such
11 person is under the age of twenty-one years. Any violation of
12 this proviso shall be punishable by revocation of license.

13 A supervisor of pari-mutuel pools shall be appointed by the
14 commission and shall be compensated by said commission. Said
15 supervisor shall have free access to the space or enclosure where
16 the pari-mutuel pool system of wagering is conducted or cal-
17 culated at any race meeting to which he shall be assigned for
18 the purpose of ascertaining whether or not said licensee is re-
19 taining only the commission provided for in said section, and
20 shall have general supervisory powers over the operation of the
21 pari-mutuel pools. He shall also, for the same purposes only,
22 have full and free access to all records and papers pertaining
23 to such pari-mutuel pool system of wagering, and shall report
24 to the commission in writing, under oath, whether or not the
25 licensee has retained any commissions in excess of those per-
26 mitted under this act.

Sec. 8. Any person aiding or abetting in the conduct of
2 any meeting in the state of West Virginia at which racing and
3 wagering on the same is permitted, without a license duly

4 issued and not revoked, and not suspended by the commission,
5 shall be guilty of a misdemeanor, and upon conviction, shall
6 be punished by a fine of not less than five thousand dollars and
7 not more than ten thousand dollars, for each day of such un-
8 authorized meeting, or by imprisonment not exceeding one year,
9 or by both fine and imprisonment, in the discretion of the
10 court.

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

Sec. 11. The commission may license jockeys, trainers and
2 grooms, register colors, assumed names, apprentice contracts,
3 authorized agents, and charge a fee therefor. All moneys col-
4 lected from fees as well as moneys collected from fines imposed
5 by the stewards, starter or other racing official shall be paid
6 into a relief fund and paid out on order of the commission for
7 the expenses of hospitalization, medical care, and/or funeral
8 expenses of jockeys, trainers or other employees at said race
9 meeting, who become ill or are injured while in the discharge
10 of their duties under the jurisdiction of the commission. If at
11 any time, this fund has a balance greater than is deemed neces-
12 sary for the payment of expenses, the commission may apply
13 the remainder to the operating expenses of the commission.

Sec. 12. 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
4 collective 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 race upon which the pool is made,
8 but the total to be divided among the first three contestants on
9 the basis of the number of wagers on these". A pool is, "a
10 combination of interests in a joint wagering enterprise, or a
11 stake in such enterprise." In the division of a pool there
12 occurs a percentage left over. This is known as "legitimate
13 breakage." "To the dime" is defined to mean that wagers
14 shall be figured to 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.

I certify that the foregoing act,
having been presented to the Governor for
his approval, and not having been returned
by him to the House of the Legislature in
which it originated within the time pre-
scribed by the constitution of the state, has
become a law without his approval.

This the 15th day of March,

1935.


SECRETARY OF STATE

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Clinton L. Howard

Chairman Senate Committee

Arnold M. Vickers

Chairman House Committee

Originated in the.....

Senate

Takes effect.....

from

.....passage.

Phurman

Clerk of the Senate

W. S. Hae

Clerk of the House of Delegates

Chas. E. Hodge

President of the Senate

John S. Patton

Speaker House of Delegates

The within.....this the.....

day of....., 1935.

.....
Governor

Filed in the office of the Secretary of State
of West Virginia. **MAR 15 1935**

Wm. S. O'BRIEN,
Secretary of State