

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953

ENROLLED

SENATE BILL NO. 127

(By Mr. Amos)

PASSED March 7 1953

In Effect Twenty day from Passage

MAR 10 1953

DEPARTMENT OF STATE

D. PITT O'BRIEN

OFFICE OF THE SECRETARY OF STATE

127

**ENROLLED**

**Senate Bill No. 127**

(By MR. AMOS)

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[Passed March 7, 1953; in effect ninety days from passage.]

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AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article twenty-four, relating to construction of race tracks for horse racing and local option elections and procedures incident thereto.

*Be it enacted by the Legislature of West Virginia:*

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article twenty-four, to read as follows:

**Article 24. Race Tracks.**

Section 1. *Race Track Construction Applications and Permits; Action by Racing Commission; Review.*—No person, after the date on which this article becomes effective, shall construct a race track where horse race meetings are to be held and the pari-mutuel system of wagering conducted, as provided in article twenty-three of this chapter, unless and until such person shall first have applied for and obtained from the West Virginia racing commission a construction permit which may be issued by said commission in strict accordance with the provisions of this article, and not otherwise. Any person desiring to obtain such construction permit shall prepare and file with the West Virginia racing commission an application therefor in such form and to such effect as said commission may require or approve. Among other things, said application shall specify:

(1) The names and addresses of all persons who are financially interested in the proposed race track, including the names of all partners, if the applicant be a partnership, and of all stockholders, if the applicant be a

21 corporation, and the names of any persons who have  
22 agreed to lend the applicant money for use in connection  
23 with such race track;

24 (2) The county where the race track is to be estab-  
25 lished; and

26 (3) Plans showing, in such detail as the commission  
27 may require, the proposed race track and all buildings  
28 and improvements to be used in connection therewith.  
29 The commission shall prescribe blank forms for use in  
30 making such application.

31 When such application shall have been prepared and  
32 filed in accordance with the foregoing requirements, the  
33 commission shall consider the same, and if the commis-  
34 sion be of opinion that the applicant intends to proceed  
35 in good faith to establish a race track complying in all  
36 particulars with the laws of this state, that the plans  
37 therefor are adequate and have been prepared with due  
38 regard to the safety of all persons who will use such race  
39 track, and that the applicant is financially able to com-  
40 plete such race track in accordance with the plans shown  
41 on such application, the commission shall enter an order

42 giving its tentative approval to such application, or, if  
43 the commission be not satisfied in the particulars above  
44 set forth, it shall refuse such application.

45 If such application be refused, the commission shall  
46 enter an order on its records specifying the reasons for  
47 its refusal thereof and such order shall be attached to  
48 said application and both the application and such order  
49 shall be open to inspection, upon application to the com-  
50 mission, of anyone desiring to inspect the same. The  
51 action of the commission in refusing any application shall  
52 be subject to review by mandamus in any court of this  
53 state having jurisdiction, with the right of appeal to the  
54 supreme court of appeals in the manner prescribed by  
55 law.

56 If the commission shall give tentative approval to such  
57 application, it shall prepare and publish, once a week for  
58 four successive weeks in some newspaper published or  
59 of general circulation in the county in which such race  
60 track is to be established, a notice to the public that the  
61 commission has given tentative approval to the applica-  
62 tion and that the commission will confirm such tentative

63 approval and issue a construction permit to the applicant  
64 at the expiration of sixty days from the date of the first  
65 publication of such notice (which date shall be specified  
66 in said notice), unless within said time an application for  
67 a local option election shall have been filed with the coun-  
68 ty court of the county in which said race track is proposed  
69 to be established in accordance with the further pro-  
70 visions of this article.

Sec. 2. *Local Option Election; Form of Petition there-*  
2 *for.*—The county court of the county in which a proposed  
3 race track is to be established is hereby authorized to call  
4 a local option election for the purpose of determining the  
5 will of the voters within said county as to the establish-  
6 ment of such race track, as hereinafter provided.

7 A petition for such local option election shall be in the  
8 form hereinafter specified and shall be signed by quali-  
9 fied voters residing within said county equal at least to  
10 fifteen per cent of the persons qualified to vote within said  
11 county at the last general election. Said petition may be  
12 in any number of counterparts and shall be filed with said  
13 county court prior to the expiration of the sixty-day

14 period specified in the notice published by the West Vir-  
15 ginia racing commission in accordance with the provi-  
16 sions of the next preceding section of this article. Said  
17 petition shall be sufficient if substantially in the follow-  
18 ing form:

19       PETITION FOR LOCAL OPTION ELECTION  
20       RESPECTING THE ESTABLISHMENT OF A  
21             RACE TRACK IN \_\_\_\_\_ COUNTY,  
22             WEST VIRGINIA

23       Each of the undersigned certifies that he or she is a  
24 person residing in \_\_\_\_\_ County, West Virginia,  
25 and is duly qualified to vote in said county under the laws  
26 of said state, and that his or her name, address and the  
27 date of signing this petition are correctly set forth below.

28       The undersigned petition said county court to call and  
29 hold a local option election as required by chapter 19,  
30 article 24 of the code of West Virginia, as amended by the  
31 Legislature of said State at its 1953 Session, upon the fol-  
32 lowing question: Shall the West Virginia Racing Com-  
33 mission issue a construction permit authorizing the  
34 establishment of a race track where horse race meetings

35 may be held and the pari-mutuel system of wagering  
36 conducted in ..... County, West Virginia?

37	Name	Address	Date
38	.....	.....	.....
39	.....	.....	.....
40	.....	.....	.....

41 (Each person signing must specify either his post office  
42 address or his street number.)

Sec. 3. *Local Option Election Procedure.*—Upon the  
 2 filing of a petition for a local option election in accord-  
 3 ance with the provisions of the next preceding section,  
 4 the county court shall enter an order calling a local op-  
 5 tion election and providing that the same shall be held  
 6 at the same time and as a part of the next primary or  
 7 general election to be held in said county. A copy of the  
 8 order so entered by the county court shall be served upon  
 9 the West Virginia racing commission and that commis-  
 10 sion shall take no further action in connection with the  
 11 issuance of such construction permit until said local op-  
 12 tion election shall be held. Said county court shall give  
 13 notice of such local option election by publication in two

14 newspapers of opposite politics and of general circulation  
15 within said county. Said notice shall be given at least  
16 once each week for two successive weeks prior to the  
17 date of said election. If there is only one newspaper  
18 published in said county, publication of said notice there-  
19 in shall be sufficient.

20 Each person qualified to vote in said county at said  
21 primary or general election shall likewise be qualified to  
22 vote at the local option election. The election officers  
23 appointed and qualified to serve as such at said primary  
24 or general election shall conduct said local option election  
25 in connection with and as a part of said primary or gen-  
26 eral election. The ballots in said local option election  
27 shall be counted and returns made by the election officers  
28 and the results certified by the commissioners of election  
29 to said county court which shall canvass the ballots, all  
30 in accordance with the laws of the state of West Virginia  
31 relating to primary and general elections insofar as the  
32 same are applicable. The county court shall, without  
33 delay, canvass the ballots cast at said local option election  
34 and certify the results thereof to the West Virginia racing

35 commission and thereupon said commission shall issue  
 36 or refuse to issue the construction permit in accordance  
 37 with the results of such local option election.

Sec. 4. *Form of Ballot.*—The ballot to be used in said  
 2 local option election shall have printed thereon substan-  
 3 tially the following:

4 Shall the West Virginia racing commission issue a  
 5 construction permit authorizing the construction in  
 6 ..... County, West Virginia, of a race track where  
 7 horse race meetings may be held and the pari-mutuel  
 8 system of wagering conducted?

9  Yes  No

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

Sec. 5. *Further Elections Restricted.*—When a local  
 2 option election in accordance with this article shall have  
 3 been held in a county, another such election shall not be  
 4 held in said county for a period of five years, and within  
 5 that time the West Virginia racing commission shall not  
 6 receive or act upon any application for any other con-  
 7 struction permit within said county. In the event a race  
 8 track shall be constructed in a county pursuant to a con-

9 construction permit issued by the West Virginia racing com-  
10 mission in accordance with the provisions of this article,  
11 no local option election shall thereafter be held as to any  
12 race track constructed pursuant to such construction  
13 permit.

*Sec. 6. Race Tracks Already Established; Applicability.*

2 —Nothing herein contained shall apply to any race track  
3 heretofore established in the state of West Virginia and  
4 at which races have been conducted by the owners or  
5 operators thereof under and in pursuance of licenses  
6 issued by the West Virginia racing commission in accord-  
7 ance with the provisions of article twenty-three of this  
8 chapter. The establishment of any new or additional race  
9 track within a county in West Virginia in which a race  
10 track has heretofore been established and operated under  
11 licenses issued by the West Virginia racing commission,  
12 whether by the persons owning and operating such exist-  
13 ing race track or others, shall be subject to the provisions  
14 of this article.

15 This article is supplementary and in addition to article  
16 twenty-three of this chapter and nothing herein con-

17 tained shall relieve the person desiring to conduct a horse  
18 race meeting, where the pari-mutuel system of wagering  
19 is followed, at either an existing race track or one which  
20 shall be hereafter established, of the necessity of securing  
21 the license therefor and otherwise complying with all of  
22 the terms, provisions and conditions of article twenty-  
23 three of this chapter.

Sec. 7. *Definition of Terms; Inconsistent Laws Re-*  
2 *pealed.*—When used in this article, the following terms  
3 shall have the following meanings:

4 “West Virginia racing commission” or “the commis-  
5 sion” refer to the corporation by that name created by  
6 article twenty-three of this chapter.

7 “Pari-mutuel” is a French word meaning “a mutual or  
8 collective pool that can be divided among those who have  
9 contributed their wagers to one central agency, the odds  
10 to be reckoned in accordance to the collective amounts  
11 wagered upon each contestant running in a race upon  
12 which the pool is made, but the total to be divided among  
13 the first three contestants on the basis of the number of  
14 wagers on these.”

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

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

*A. McKirley*  
Chairman Senate Committee

*A. A. A. A. A.*  
Chairman House Committee

Originated in the Senate.

Takes effect *twenty days from* passage.

*J. S. S. S.*  
Clerk of the Senate

*J. S. S. S.*  
Clerk of the House of Delegates

*Ralph J. R.*  
President of the Senate

*W. S. S.*  
Speaker House of Delegates

The within *approved* this the *10<sup>th</sup>*  
day of *March*, 1953.

*William C. M.*  
Governor.



Filed in the Office of the Secretary of State  
of West Virginia **MAR 10 1953**

**D. PITT O'BRIEN,**  
SECRETARY OF STATE