

WEST VIRGINIA LEGISLATURE

REGULAR THIRTY-DAY SESSION, 1956



ENROLLED

*Senate Com. Sub for House Bill*

SENATE BILL NO. 10

*Originating in Com. on Finance*

(By Mr.....)



PASSED February 9, 1956

In Effect July 1, 1956 Passage



Filed in the Office of the Secretary of State  
of West Virginia FEB 15 1956  
D. HITT CARRISON  
SECRETARY OF STATE

**ENROLLED**

SENATE COMMITTEE SUBSTITUTE

FOR

**House Bill No. 10**

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(Originating in the Senate Committee on Finance)

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AN ACT to amend and reenact article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to horse racing.

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

That article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**Article 23. Horse Racing.**

Section 1. *Racing Commission Established; Meetings  
2 and Report to Governor; Number; Terms; Power and*

3 *Duties.*—There is hereby created the West Virginia rac-  
4 ing commission, which shall be a corporation and, as  
5 such, may contract and be contracted with, sue and be  
6 sued, and shall have a corporate seal. Said commission  
7 shall have its principal office in the state capitol at  
8 Charleston, and shall meet annually at its office in the  
9 month of January, and at such other times and places  
10 as shall be designated by its chairman. It shall also make  
11 and publish annually a report to the governor of the  
12 business transacted by it.

13 The commission shall consist of three members, all of  
14 whom shall be actual and bona fide residents of this  
15 state and not more than two of whom shall at any one  
16 time belong to the same political party. They shall be  
17 appointed by the governor by and with the advice and  
18 consent of the senate. The term of office of the members  
19 of such commission shall be four years, except that of  
20 the first appointees, one shall be appointed for two years,  
21 one for three years and one for four years, and their  
22 appointments shall be made within twenty days after  
23 this bill shall become effective, and their successors shall

24 thereafter be appointed for terms of four years each.  
25 No person not a bona fide member of the commission  
26 shall vote upon or participate in the deliberations of the  
27 commission on any matter which may come before it.  
28 Said commission shall have all the powers necessary to  
29 carry out fully and effectively all the purposes of this  
30 act and shall have the power to prescribe reasonable  
31 regulations under which all races shall be conducted  
32 within the state of West Virginia except as hereinafter  
33 provided. The commission may at any time, for the  
34 violation of any such regulation, or for any fraudulent  
35 practices, require the removal of any racing official or  
36 racing employee employed by any licensee licensed here-  
37 under, and shall have power to summon witnesses and  
38 to administer oaths or affirmations to such witnesses and  
39 take testimony whenever in the judgment of said com-  
40 mission it may be necessary for the discharge of its  
41 duties. False swearing on the part of any witness shall  
42 be deemed perjury and shall be punished as such.

Sec. 2. *Qualifications and Compensation of Members,*

2 *Secretary, Steward and Employees.*—The compensation

3 of the members of the commission shall not exceed the  
4 sum of twenty-five dollars per day, and actual bona fide  
5 expenses, while actually engaged in the business of the  
6 commission, and shall not exceed the sum of two thou-  
7 sand five hundred dollars per annum in the aggregate  
8 for compensation. The commission shall, under the re-  
9 strictions and within the qualifications hereinafter set  
10 forth, appoint a secretary and steward, to represent the  
11 commission, and such additional help as shall be reason-  
12 ably necessary to administer the provisions of this act  
13 and shall, within the limits prescribed by the legisla-  
14 ture, fix their compensation and actual expenses. The  
15 compensation and actual expenses of the members and  
16 employees of the commission shall be paid from the  
17 funds in the hands of the state treasurer collected from  
18 the license tax on pari-mutuel wagering and shall be  
19 itemized in the budget in the same manner as all other  
20 departments of the state government, but no such ex-  
21 penses shall be paid unless an itemized account thereof,  
22 under oath, be first filed with the state auditor.

23 (a) No person who directly or indirectly has an in-  
24 terest in any manner whatsoever, including an interest  
25 as owner, lessor, lessee, stockholder or employee, in any  
26 race track, where horse race meetings may be held, shall  
27 be eligible for appointment to the commission.

28 (b) No person while serving as a member of the  
29 Legislature, or as an elective officer of this state shall be  
30 eligible for appointment to the commission.

31 (c) No person convicted of an offense, which, under  
32 the laws of this state or any other state or of the United  
33 States of America, constitutes a felony or a violation of  
34 chapter sixty-one, article four of this code shall be  
35 eligible for appointment to the commission.

36 (d) No person shall knowingly be employed by the  
37 commission in any capacity whatsoever who shall:

38 1. Directly or indirectly, or in any capacity, own or  
39 have an interest in any race track where horse race  
40 meetings may be held, including an interest as owner,  
41 lessor, lessee, stockholder or employee.

42 2. At the time of his employment as a racing official  
43 be or have been within one year prior thereto, a member

44 of the Legislature, or an elective officer, of this state, un-  
45 less he is experienced and qualified as a racing official.

46 3. Have been prior to the time of his employment, or  
47 shall during the time of his employment, convicted of  
48 an offense, which, under the laws of this state or any  
49 other state or of the United States of America, consti-  
50 tutes a felony or a violation of chapter sixty-one, article  
51 four of this code.

52 4. In any manner have delegated to him the duties  
53 and powers of the members of the commission, as direc-  
54 tor or supervisor of racing, or in any other manner or  
55 capacity whatsoever.

56 Any steward employed by the commission or by a  
57 licensee thereof, shall be a person of integrity, and ex-  
58 periented and qualified for such position by the generally  
59 accepted practices and customs of horse racing in the  
60 United States.

61 Any person violating any provision of this section shall  
62 be guilty of a misdemeanor and upon conviction shall be  
63 confined in jail not less than six months nor more than  
64 one year and be fined not less than five hundred nor

65 more than one thousand dollars or in the discretion of  
66 the court, by both such fine and imprisonment. Venue  
67 of such offense shall be in the county, or any one of the  
68 counties, wherein the person violating this section, car-  
69 ried out any duties of, or performs any work for, the  
70 commission, which constitutes the basis of the charge or  
71 complaint against him.

Sec. 3. *Horse Racing Revenues Paid into General Fund.*

2 —All revenues collected pursuant to the provisions of  
3 this article, as license taxes, pari-mutuel pool operation  
4 taxes or otherwise, including all moneys accruing to the  
5 state from unredeemed pari-mutuel tickets, shall be paid  
6 directly to the treasurer of the state of West Virginia  
7 and be deposited by him to the credit of the general  
8 revenue fund of the state. Remittance of all such col-  
9 lected and accrued revenues shall be made by the com-  
10 mission to the state treasurer at least one time during  
11 each thirty-day period of the racing season and a final  
12 remittance as to any particular race meeting shall be  
13 made within thirty days from and after the close of  
14 each such race meeting.

Sec. 4. *License for Horse Racing for Stake, Purse or Reward.*—No person shall hereafter hold or conduct any horse race meeting within the state of West Virginia whereat horse racing shall be permitted for any stake, purse or reward except under the license of the West Virginia racing commission. However, nothing in this act shall be construed to prevent in any way the use of any grounds, enclosure or race track owned and controlled by any person for any local, county or state fair, agriculture or live stock exposition, even though racing be conducted thereat, when no wagering or pari-mutuel pool selling upon the result of the racing so held thereat is permitted within the knowledge or acquiescence of the person conducting the same and when the pari-mutuel pool system of wagering is not conducted.

Sec. 5. *Application for License; Priority of Racing Dates; Review.*—Any person desiring to conduct a horse race meeting within the state of West Virginia to permit or conduct pari-mutuel pools shall apply to the West Virginia racing commission for a license to do so. Such application shall be filed with the commission at least

7 thirty days prior to the first day of each horse race  
8 meeting which said person proposes to hold or conduct.

9 The commission shall prescribe blank forms in making  
10 such applications. Such applications shall specify the  
11 days upon which said race meeting is to be conducted.  
12 It shall state the name of the person making such ap-  
13 plication, the post office address of the person making  
14 such application, the number of days he intends to hold  
15 or conduct such meeting (which shall be successive week  
16 days, excluding Sundays,) and the location of the place  
17 or track or enclosure where he proposes to hold or con-  
18 duct such race meeting.

19 In fixing the dates for race meetings at the various  
20 tracks in this state the commission shall consider the  
21 racing circuits with which the race tracks in this state  
22 are associated, or contiguous to, and shall also consider  
23 dates which are calculated to increase the tax revenues  
24 accruing from racing.

25 The commission shall promptly consider such applica-  
26 tions and within ten days after the filing of such applica-  
27 tion with the commission, shall grant or reject any

28 application for a license. If said license is refused, said  
29 commission shall forthwith publicly state its reasons for  
30 the refusal in writing, attach them to the application so  
31 refused and immediately notify the applicant. Such re-  
32 fusal and reasons for same shall, at all times, be subject to  
33 inspection upon application of anyone desiring to inspect  
34 same. Said findings shall be subject to review by manda-  
35 mus in any court of this state having jurisdiction, includ-  
36 ing the circuit court of the county wherein the horse race  
37 meeting is proposed to be held, with the right to appeal to  
39 the supreme court of appeals in the manner prescribed  
40 by law.

Sec. 6. *Procedure for Suspension or Revocation of a*  
2 *License.*—The commission shall not suspend or revoke  
3 a license until after a hearing has been held in the county  
4 wherein the licensee is or has been conducting race meet-  
5 ings. Notice of such hearing shall be served on the  
6 licensee at least ten days prior to the hearing. Such  
7 notice shall set forth the reasons for such proposed  
8 suspension or revocation and be served in the manner  
9 set forth in this code for the service of a summons.

10 Appeal from the decision of the commission shall lie in  
11 the circuit court of the county wherein such hearing is  
12 held, with the right of appeal to the supreme court of  
13 appeals in the manner provided by law.

Sec. 7. *Per Diem Tax on Tracks; Tax on Pool Contri-*  
2 *bution; How Taxes Paid; Financial Responsibility of*  
3 *Licensee.*—A person operating any horse race track one  
4 mile or more in length shall pay each day upon which  
5 horse races are run a license tax of five hundred dollars;  
6 any race track less than one mile in length shall pay for  
7 each day upon which horse races are run a license tax  
8 of two hundred fifty dollars: *Provided however, That*  
9 *the per diem tax shall not apply to horse shows or county*  
10 *fairs at which racing is conducted for not more than*  
11 *six days. Any person licensed by the commission to con-*  
12 *duct racing and to permit and conduct pari-mutuel wag-*  
13 *ering under this article, shall in addition to the aforemen-*  
14 *tioned tax, pay to the racing commission of the state of*  
15 *West Virginia a tax of five per cent of the total contribu-*  
16 *tion to all pari-mutuel pools conducted or made at any and*  
17 *every race meeting licensed under this article. Such pay-*

18 ments shall be made to the commission or its agents after  
19 the last race on each day and every day or each and every  
20 race meeting, and shall be made from all contributions  
21 to all pari-mutuel pools to each and every race of the day,  
22 which payments shall be deposited with the treasurer of  
23 the state of West Virginia to the credit of the general  
24 revenue fund.

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

Sec. 8. *Disposition of Funds for Payment of Outstand-*  
2 *ing Pari-Mutuel Tickets.*—All moneys held by any li-  
3 censee for payment of outstanding pari-mutuel tickets,  
4 if not claimed within one year after the close of any

5 race meeting, shall be turned over by the licensee to the  
6 commission within fifteen days after the expiration of  
7 such one-year period, and the licensee shall give such  
8 information as the commission may require concerning  
9 such outstanding and unredeemed tickets. All such  
10 moneys shall be deposited by the commission with the  
11 treasurer of the state of West Virginia, to be kept by  
12 him in a special account to be known as "West Virginia  
13 Racing Commission Special Account—Unredeemed Pari-  
14 Mutuel Tickets." The commission shall cause to be pub-  
15 lished one time, in some newspaper published of general  
16 circulation in the county in which such race meeting was  
17 held, a notice to the holders of such unredeemed tickets,  
18 notifying them to present such tickets for payment at  
19 the office of the commission in the city of Charleston  
20 within one year from the date of the publication of such  
21 notice.

22 Any such tickets that shall not be presented for pay-  
23 ments within one year from the date of the publication  
24 of the notice shall thereafter be irredeemable, and the  
25 moneys theretofore held for the redemption of such

26 tickets shall become the property of the state of West  
27 Virginia, and be deposited to the credit of the general  
28 fund of the state, and be expended in such manner as  
29 may be provided by law.

30 The cost for the publication of the notice provided for  
31 by the section shall be paid from the funds in the hands  
32 of the state treasurer collected from the license tax on  
33 pari-mutuel wagering, when not otherwise provided in  
34 the budget; but no such costs shall be paid unless an item-  
35 ized account thereof, under oath, be first filed with the  
36 state auditor.

Sec. 9. *Only Pari-Mutuel System of Wagering Per-*  
2 *mitted; Minors; Auditor.*—A person licensed by the com-  
3 mission shall permit only the pari-mutuel system of wag-  
4 ering within the enclosure at which horse racing is held,  
5 and the commission deducted by the licensee from the  
6 said pari-mutuel pool shall not exceed fourteen per cent  
7 of the total pari-mutuel pools for the day, including the  
8 license fee of the gross amount handled hereinbefore  
9 provided for, plus the breakage, which shall be made

10 and calculated to the dime. Such breakage shall be re-  
11 tained by the licensee.

12 *Provided however,* That no holder of such license shall  
13 permit or allow any person under the age of twenty-one  
14 years to wager thereat, knowing or having reason to be-  
15 lieve that such person is under the age of twenty-one  
16 years. Any violation of this proviso shall be punishable  
17 by revocation of license.

18 An auditor of pari-mutuel pools shall be appointed by  
19 the commission and shall be compensated by said com-  
20 mission. He shall be an experienced public account-  
21 ant. Said auditor shall have free access to the space or  
22 enclosure where pari-mutuel pool system of wagering is  
23 conducted or calculated at any race meeting to which he  
24 shall be assigned for the purpose of ascertaining whether  
25 or not said licensee is retaining only the commission pro-  
26 vided for in said section. He shall also, for the same pur-  
27 poses only, have full and free access to all records and  
28 papers, pertaining to such pari-mutuel pool system of  
29 wagering, and shall report to the commission in writing,  
30 under oath, whether or not the licensee has retained any

31 commissions in excess of those permitted under the  
32 article.

Sec. 10. *Conducting Race Meet Without License; Pen-*  
2 *alty.*—Any person aiding or abetting in the conduct of  
3 any meeting in the state of West Virginia at which rac-  
4 ing and wagering on the same is permitted, without a  
5 license duly issued, not suspended or revoked and un-  
6 appealed from by the commission, shall be guilty of a  
7 misdemeanor, and, upon conviction, shall be punished by  
8 a fine of not less than one thousand dollars for each day  
9 of such unauthorized meeting, or by imprisonment not  
10 exceeding one year, or by both fine and imprisonment,  
11 in the discretion of the court. Provided that no punish-  
12 ment shall be imposed upon any licensee for conducting  
13 a race meeting during the time that an appeal from the  
14 action of the commission suspending or revoking his li-  
15 cense theretofore, is pending.

Sec. 11. *License Tax to Be in Lieu of All Other Tax-*  
2 *es.*—The license tax herein imposed shall be in lieu of all  
3 other license, income, excise, special or franchise taxes  
4 of the state of West Virginia, and no county, city, town

5 or other municipality or other political subdivision of the  
6 state of West Virginia shall be empowered to levy or  
7 impose any license, income, excise, special or franchise  
8 tax on any such person engaged in the business of con-  
9 ducting a meeting at which horse races are run for stakes,  
10 purses or reward under the jurisdiction of and being li-  
11 censed by the commission, or on the operation or main-  
12 tenance of the pari-mutuel system, or on the sale of any  
13 commodity during a meeting at which horse races are  
14 run, or at any such horse race track.

Sec. 12. *Gaming Statutes Not to Apply to Pari-Mutuel*  
2 *System of Wagering.*—Section one, article ten, chapter  
3 sixty-one of the code of West Virginia, one thousand nine  
4 hundred thirty-one, relating to gaming tables and de-  
5 vices, shall not apply to the pari-mutuel pool system of  
6 wagering in manner and form as provided for in this act  
7 at any meeting within the state of West Virginia where-  
8 at horse racing shall be permitted for any stake, purse or  
9 reward, by any person having license for holding or con-  
10 ducting such horse race meeting as provided by this act.

Sec. 13. *Licenses for Jockeys, etc.; Relief Fund For.*—

2 The commission may license jockeys, trainers, and  
3 grooms, register colors, assumed names, apprentice con-  
4 tracts, authorized agents, and charge a fee therefor.  
5 All moneys collected from fees as well as moneys col-  
6 lected from fines imposed by the stewards, starter or  
7 other racing official shall be paid into a relief fund and  
8 paid out on order of the commission for the expenses of  
9 hospitalization, medical care and/or funeral expenses of  
10 jockeys, grooms or trainers, except members of the com-  
11 mission, at said race meeting, who become ill or are in-  
12 jured while in the discharge of their duties under the  
13 jurisdiction of the commission, and who are not subject  
14 to coverage under the workmen's compensation fund of  
15 this state. Balances in said fund in excess of five thou-  
16 sand dollars, less any relief obligations outstanding, shall  
17 be transferred to the general revenue fund of this state.

Sec. 14. *Number of Races Daily.*—The commission

2 shall fix a minimum but not a maximum number of races  
3 to be held on any respective racing day.

Sec. 15. *Internal Affairs And Business of Licensee.*—

2 The commission shall not interfere in the internal bus-  
3 iness or affairs of any licensee.

Sec. 16. *Definitions.*—Definitions and explanations of  
2 certain technical terms and words used in this act are as  
3 follows:

4 “Pari-Mutuel” is a French word meaning, “a mutuel  
5 or collective pool that can be divided among those who  
6 have contributed their wagers to one central agency,  
7 the odds to be reckoned in accordance to the collective  
8 amounts wagered upon each contestant running in a race  
9 upon which the pool is made, but the total to be divided  
10 among the first three contestants on the basis of the num-  
11 ber of wagers on these.” A pool is, “a combination of  
12 interests in a joint wagering enterprise, or a stake in such  
13 enterprise.” In the division of a pool there occurs a per-  
14 centage left over. This is known as “legitimate break-  
15 age.” “To the dime” is defined to mean that wagers shall  
16 be figured to and paid to the dime.

Sec. 17. *Inconsistent Laws Repealed.*—All other acts,  
2 whether general or local, public or private, inconsistent

3 with the provisions of this act are hereby repealed: *Pro-*  
4 *vided*, That nothing herein contained shall in any way  
5 affect, abridge or abolish the authority of a municipality  
6 to impose a license tax as authorized by section thirteen-c,  
7 article four, chapter eight of this Code.

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

*A. Carl Curry*  
Chairman Senate Committee

*W. P. Brotherton, Jr.*  
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1956 passage.

*Howard Hayes*  
Clerk of the Senate

*C. Blankenship*  
Clerk of the House of Delegates

*Ralph Bacon*  
President of the Senate

*H. E. Flannery*  
Speaker House of Delegates

The within approved this the 14  
day of February, 1956.

*William C. Marland*  
Governor



Office of the Secretary of State  
FEB 15 1956  
D. PITT O'BRIEN  
SECRETARY OF STATE