WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1959

ENROLLED
SENATE BILL NO. 314

(By Mr. Martin)

PASSED March 14, 1959

In Effect from Passage

Filed in Office of the Secretary of State
of West Virginia MAR 20 1959
JOE F. BURDETT
SECRETARY OF STATE
AN ACT to amend article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section fifteen-a; to further amend said article twenty-three by amending and reenacting sections two, five, six, eight and thirteen thereof; and to further amend said chapter nineteen by amending and reenacting section six-a, article twenty-four thereof, all relating to horse racing and horse race tracks.

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 by adding thereto a new section designated section fifteen-a; that said article twenty-three be further amended by amending and reenacting sections two, five, six, eight and thirteen thereof, and that said chapter nineteen be further amended by amending and reenacting section six-a, article twenty-four thereof, to read as follows:

**Article 23. Horse Racing.**

Section 2. Qualifications and Compensation of Members,

Secretary, Steward and Employees.—The compensation of the members of the commission shall not exceed the sum of forty dollars per day, and actual bona fide expenses, while actually engaged in the business of the commission, and shall not exceed the sum of four thousand dollars per annum in the aggregate for compensation. The commission shall, under the restrictions and within the qualifications hereinafter set forth, appoint a secretary and steward to represent the commission, and such additional help as shall be reasonably necessary to administer the provisions of this article, and shall, within the limits prescribed by the Legislature, fix their compensation and actual expenses. The compensation and actual expenses of the
members and employees of the commission shall be paid from the funds in the hands of the state treasurer collected from the license tax on pari-mutuel wagering and shall be itemized in the budget in the same manner as all other departments of the state government, but no such expense shall be paid unless an itemized account thereof, under oath, be first filed with the state auditor.

The commission shall, under the restrictions and within the qualifications hereinafter set forth, appoint a veterinarian, a patrol judge, a general inspector, and a license clerk to represent it at each race meeting being conducted in this state. The veterinarian, the patrol judge, the general inspector, and the license clerk shall be paid by the association conducting the race meet where such veterinarian, patrol judge, general inspector, and license clerk are employed, at such compensation as the commission shall fix.

(a) No person who directly or indirectly has an interest in any manner whatsoever, including an interest as owner, lessor, lessee, stockholder or employee, in any race track, where horse race meetings may be held, shall be eligible for appointment to the commission.
(b) No person while serving as a member of the Legislature, or as an elective officer of this state, shall be eligible for appointment to the commission.

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

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

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

2. At the time of his employment as a racing official be or have been within one year prior thereto, a member of the Legislature or an elective officer of this state, unless he is experienced and qualified as a racing official.

3. Have been prior to the time of his employment, or shall be during the time of his employment, convicted of an offense, which, under the laws of this state or any other
state or of the United States of America, constitutes a felony or a violation of chapter sixty-one, article four of this code.

4. In any manner have delegated to him the duties and powers of the members of the commission, as director or supervisor of racing, or in any other manner or capacity whatsoever.

Any steward employed by the commission or by a licensee thereof, shall be a person of integrity, and experienced and qualified for such position by the generally accepted practices and customs of horse racing in the United States.

At least eighty-five per cent of the persons employed by a licensee at a racing meeting held or conducted by him shall be citizens and residents of the state and shall have been such citizens and residents for at least two years immediately prior to such employment.

For the purpose of this section citizens and residents of the state shall be construed to mean persons who maintain a permanent place of residence in the state of West Virginia, and have been bona fide residents and citizens of
West Virginia for a period of two consecutive years immediately prior to the filing of their applications for employment.

The provisions of this section shall not apply to the construction of a racing plant or the equipping of same, nor to the racing officials as designated by the racing commission or the executive officers of the racing association.

Any person violating any provision of this section shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not less than six months nor more than one year or be fined not less than five hundred nor more than one thousand dollars, or, in the discretion of the court, may be punished by both such fine and imprisonment. Venue of such offense shall be in the county, or any one of the counties, wherein the person violating this section carries out any duties of, or performs any work for, the commission, which constitutes the basis of the charge or complaint against him.

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 a time to be fixed by the commission.

The commission shall prescribe blank forms for making such applications. Such application, among other things, shall specify the days upon which said race meeting is to be conducted, the name of the person making the application, the post office address of the person making such application, the number of days such person intends to hold or conduct such meeting (which shall be successive week days, excluding Sundays) and the location of the place, track or enclosure where he proposes to hold or conduct such race meeting. The commission shall grant or reject any such application within twenty days after receipt of such application.

No license shall be granted to any person, firm or corporation, the owners, members, stockholders, officers or directors of which shall consist of persons any
one of whom has heretofore been convicted, within
ten years prior to the date of such license applica-
tion, of an offense which, under the laws of this
state, of any other state, or of the United States of
America, shall constitute a felony or a crime involv-
ing moral turpitude; for the purposes aforesaid, mem-
bers, stockholders, officers or directors shall include
the members, stockholders, officers, or directors of any
corporation owning, directly or indirectly, any inter-
est in said applicant or affiliated therewith, and, mem-
ber, person, firm or stockholder shall include the member,
person, firm or stockholder for whom such interest in said
applicant is held by another, in any capacity.

In granting licenses for horse race meetings, the com-
mission shall exercise its discretion, but, in order to main-
tain and increase the revenues of the state, shall give reas-
onable preference and priority as to racing dates to the race
tracks or persons who own or operate race tracks, which,
during the year of operation next preceding the year for
which licenses are applied for, have produced the greatest
average daily tax revenues to the state of West Virginia;
in fixing such dates the commission shall also take into consideration the racing circuits in neighboring states, with which the race tracks in this state are associated, or to which they are contiguous. The commission may grant licenses for day or night racing in accordance with the application filed by the applicant, but no applicant after having received a license for day racing shall be permitted to operate night racing, nor shall an applicant after having received a license for night racing, be permitted to operate day racing, within the period for which the license was granted.

The commission may, upon application by the licensee, extend or modify any license previously granted to such licensee for any race meeting then in progress, so long as such extension or modification thereof does not affect adversely any other licensee.

All licenses, temporary licenses or tentative dates to conduct horse race meetings previously granted by the commission for horse race meetings commencing after the effective date of this section are hereby vacated and rescinded and shall have no further force or effect.
The commission shall forthwith, after the effective date of this section, fix a date or dates upon which it will hear and consider applications for tentative days or dates of race meetings to be conducted in the calendar year in which this section becomes effective, and shall, also, within a reasonable time after the effective date of this section, fix, for the calendar year one thousand nine hundred fifty-nine and each calendar year thereafter, by rule or regulation, a date or dates upon which it will hear and consider applications for tentative days or dates of race meetings to be conducted in the calendar year following the filing of such application.

Any applicant for a license to conduct a horse race meeting, aggrieved by the order of the commission granting or denying his application for such license may file a petition for a writ of certiorari to the circuit court of Kanawha county, or the judge thereof in vacation, and such court or the judge thereof in vacation shall require the commission to certify and submit to the clerk of such court all papers, documents, evidence and records which were before the commission and relate to such application.
for license, and upon such petition and record such court
or the judge thereof in vacation, after reasonable and
proper notice to the commission and hearing, shall review
the action of the commission granting or denying such li-
cense and shall affirm, modify or set aside, in whole or in
part, such action of the commission. The supreme court
of appeals shall have jurisdiction to review the order of
the circuit court aforesaid or the judge thereof in vacation,
upon application of either the commission or the appli-
cant.

Sec. 6. Procedure for Suspension or Revocation of a Li-
cense.—The commission shall not suspend or revoke a li-
cense until after a hearing has been held in the county
wherein the licensee is or has been conducting race meet-
ings. Notice of such hearing shall be served on the licensee
at least ten days prior to the hearing. Such notice shall set
forth the reasons for such proposed suspension or revoca-
tion and be served in the manner set forth in this code for
the service of a summons.

Review from the decision of the commission shall lie in
the circuit court of Kanawha county or before the judge
thereof in vacation upon a petition for a writ of *certiorari* and such court or the judge thereof in vacation, shall require the commission to certify and submit to the clerk of such court all papers, documents, evidence and records which were before the commission and relate to such suspension or revocation and upon such petition and record, such court or the judge thereof in vacation after proper and reasonable notice to the commission and hearing, shall review the action of the commission suspending or revoking such license and shall affirm, modify or set aside, in whole or in part, such order. The supreme court of appeals shall have jurisdiction to review the order of the circuit court or the judge thereof in vacation upon application of either the commission or the applicant.

**Sec. 8. Disposition of Funds for Payment of Outstanding Pari-Mutuel Tickets.**—All moneys held by any licensee for payment of outstanding pari-mutuel tickets, if not claimed within one hundred eighty days after the close of any race meeting, shall be turned over by the licensee to the commission within fifteen days after the expiration of such one hundred eighty day period, and the
licensee shall give such information as the commission may require concerning such outstanding and unredeemed tickets. All such moneys shall be deposited by the commission with the treasurer of the state of West Virginia to the credit of the general revenue fund.

The commission shall cause to be published one time, during the first week following the close of any race meeting, in some newspaper of general circulation in the county in which such race meeting was held, a notice to the holders of such unredeemed tickets, notifying them to present such tickets for payment to the office of the racing association at which such unredeemed tickets were issued within one hundred eighty days after the close of the race meeting during which they were issued.

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

The commission may license jockeys, apprentice jockeys, exercise boys, owners, trainers, grooms, plater, stable foremen, valets, veterinarians, authorized agents, jockeys' agents, mutuel employees, and such other categories employed on a race track as the commission may deem proper; and may charge a fee therefor. The commission
may also register colors and assumed names, and may charge a fee therefor. All moneys collected from fees, as well as moneys collected from fines imposed by the stewards, starter, or other racing official, shall be paid into a relief fund and paid out on the order of the commission for expenses of hospitalization, medical care, and funeral expenses resulting from injuries received by licensees of the commission while in the discharge of their duties under the jurisdiction of the commission. No such money shall be paid by the commission for such hospitalization, medical care, and funeral expenses of any licensee who is covered under the workmen’s compensation fund of this state, or who is covered by any insurance policy.

Balances in said fund in excess of five thousand dollars less any relief obligations outstanding, shall be transferred to the general revenue fund of this state.

Sec. 15-a. Inspection by Legislative Auditor.—The legislative auditor is hereby vested with the authority, and directed, to periodically examine and inspect the capital stock record books and all other records of any licensee
of the commission, and is hereby authorized to make
copies thereof and maintain the same on file in his office;
for such purposes any licensee of the commission shall,
upon demand, make all records available to the legisla-
tive auditor; such information shall be made available to
the state racing commission.

Article 24. Race Tracks.

Sec. 6-a. Restrictions on Construction Permits.—No con-
struction permit which may be or has been issued under
the provisions of this article shall be transferred or as-
signed in any manner whatsoever without the consent of
the commission. When a permit is issued for construction
of a race track for running, trotting or other particular
type or kind of horse race meeting, the owner, holder or
other person responsible for the race track constructed
under such permit may not convert or change the meeting
into a horse race meeting of another type or kind within
one year from and after the date on which construction
is completed and the first race meeting is held, whichever
is the later, but may, after expiration of such one year
period, convert or change the type or kind of meeting
Provided, however, That any person who has constructed a race track under a construction permit issued under the provisions of this article, may not, after having received a license to conduct day racing, either under this or the next preceding article, be permitted to operate night racing or having received a license for night racing, either under this or the next preceding article, be granted a license for day racing, within the period for which the license was granted.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

Takes effect From passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within vetoed this the 20th day of March, 1959.

[Signature] Governor