WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1963

ENROLLED

Senate Conv. Sub. for
SENATE BILL NO.
Home Vote # 38
(By Mr. ____________________________)

PASSED March 9, 1963

In Effect July 1, 1963

Filed in Office of the Secretary of State of West Virginia 3-16-63
JOE F. BURDETT
SECRETARY OF STATE
AN ACT to amend and reenact sections two, seven, eight and nine, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to taxes to be paid by and the financial responsibility of licensees conducting horse racing within the state; awards to an owner of a horse when said owner is a bona fide resident of this state; and to the regulation and control of horse racing.

Be it enacted by the Legislature of West Virginia:

That sections two, seven, eight and nine, 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:

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 expenses shall be paid unless an itemized account thereof, under oath, be first filed with the state auditor.

(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, except such authority as shall be necessary in order to carry out fully and effectively the reasonable regulations adopted and promulgated by the commission, may be delegated to employees and/or representatives of the commission.

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.

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. 7. Per Diem Tax on Trucks; Tax on Pool Contributions; How Taxes Paid; Financial Responsibility of Licensees; Contents of Licenses.—Any person operating thoroughbred or running type racing, at any horse race track one mile or more in length shall pay each day upon which horse races are run, a license tax of five hundred dollars; any race track less than one mile in length shall pay for each day upon which
horse races are run a license tax of two hundred fifty dollars: Provided, That the per diem tax shall not apply to horse shows or county fairs at which racing is conducted for not more than six days. Any person licensed by the commission to conduct thoroughbred or running type racing and to permit and conduct pari-mutuel wagering under this article shall, in addition to the aforementioned tax, pay to the racing commission of the state of West Virginia a tax of five and three-fourths per cent of the total contribution to all pari-mutuel pools conducted or made at any and every race meeting licensed under this article. Such payments shall be made to the commission or its agent after the last race of each day and every day of each and every race meeting, and shall be made from all contributions to all pari-mutuel pools to each and every race of the day, which payment shall be deposited with the treasurer of the State of West Virginia to the credit of the general revenue fund: Provided, however, That a person operating any duly licensed horse race track, having an average daily pari-mutuel pool of one hundred fifty thousand dollars or less, per day, for
the licensed race meetings, of the preceding calendar year, shall, in lieu of payment of the five and three-fourths per cent tax, paid to the state, from pari-mutuel pools, as above provided, be permitted to conduct pari-mutuel wagering at such horse race track, under this article, on the basis of a daily tax which is fixed as follows: On a daily mutuel pool not exceeding one hundred fifty thousand dollars the daily tax shall be four thousand dollars plus five and three-fourths per cent of the daily mutuel pool, if any, in excess of one hundred fifty thousand dollars.

Any person making application for a license for a meeting to be held on any track in the state of West Virginia, shall, when required, furnish satisfactory evidence to the commission of his or their ability to pay license fees, purses, salaries of officials and other expenses incident to the meeting. In the event the applicant is not able to furnish such satisfactory evidence of his or their ability to pay such expenses and fees, then the commission may require bond or other adequate security for not more than four successive days before license is issued.
When issuing any license under this article, the commission shall designate upon the face of the license, the kind or type of horse racing for which the same is issued, the number of days the licensee is permitted to conduct horse racing of any kind, the location of the place or track or enclosure at which the horse racing thereby permitted is to be conducted, and such other provisions and conditions as the commission may wish to prescribe; no kind or type of horse racing shall be conducted by licensee other than that for which the license is issued.

Sec. 8. Disposition of Funds for Payment of Outstanding Pari-Mutuel Tickets; Award to Bona Fide Resident and Owner of a Horse.—All moneys held by any licensee for payment of outstanding pari-mutuel tickets, if not claimed within ninety 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 ninety 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 and kept
by it in a special account to be known as "West Virginia Racing Commission Special Account—Unredeemed Pari-Mutuel Tickets." Notice of the amount, time and place of such deposit shall be given by the commission, in writing, to the state treasurer. The commission shall cause to be published one time, in the 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 the payment at the office of the commission in the city of Charleston within ninety days from the date of the publication of such notice.

Any such tickets that shall not be presented for payment within ninety days from the date of the publication of the notice shall thereafter be irredeemable, and the moneys theretofore held for the redemption of such tickets shall become the property of the commission, and be deposited, as aforesaid, and be expended as follows:

To the owner of the winning horse in any horse race, at any horse race track licensed in this state, provided
that the owner of such horse is at the time, of such race, a bona fide resident of this state, a sum equal to ten per cent of the purse won by such horse.

To the breeder, that is the owner of the mare, of the winning horse in any horse race, at any horse race track licensed in this state, provided, that such breeder was, at the time such winning horse was foaled, a bona fide resident of this state, a sum equal to ten per cent of the purse won by such horse.

To the owner of the stallion which sired the winning horse in any horse race, at any horse race track licensed in this state, provided, that the mare which foaled such winning horse, was served by such stallion in this state, and the owner of such stallion, was, at the time of such service, a bona fide resident of this state, a sum equal to ten per cent of the purse won by such horse.

One person may qualify for any one or all of the awards aforesaid.

The cost for the publication of the notice provided for by this section shall be paid from the funds in the hands of the state treasurer collected from the license tax on

54 pari-mutuel wagering, when not otherwise provided in
55 the budget; but no such costs shall be paid unless an
56 itemized account thereof, under oath, be first filed with
57 the state auditor.

Sec. 9. Only Pari-Mutuel System of Wagering Per-
mitted; Commission of Licensee on Pari-Mutuel Pools;

2 A person licensed by the commission
3 shall permit only the pari-mutuel system of wagering
4 within the enclosure at which horse racing is held, and
5 the commission deducted by any thoroughbred or run-
6 ning horse race licensee from the said pari-mutuel pools
7 shall not exceed fifteen percent of the total pari-mutuel
8 pools for the day, including the license fee of the gross
9 amount handled hereinbefore provided for, plus the
10 breakage, which shall be made and calculated to the dime.
11 Such breakage shall be retained by the licensee.
12
13 No holder of such license shall permit or allow any
14 person under the age of twenty-one years to wager there-
15 at, knowing or having reason to believe that such person
16 is under the age of twenty-one years. Any violation of
this paragraph shall be punishable by revocation of license.

An auditor of pari-mutuel pools shall be appointed by the commission and shall be compensated by said commission. He shall be an experienced public accountant. Said auditor shall have free access to the space or enclosure where the pari-mutuel pool system of wagering is conducted or calculated at any race meeting to which he shall be assigned for the purpose of ascertaining whether or not said licensee is retaining only the commission provided for in this section. He shall also, for the same purposes only, have full and free access to all records and papers pertaining to such pari-mutuel pool system of wagering and shall report to the commission in writing, under oath, whether or not the licensee has retained any commissions in excess of those permitted under this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1963, passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 16th day of March, 1963.

Governor