

WEST VIRGINIA LEGISLATURE


REGULAR SESSION, 1963

ENROLLED

Senate Com. Sub- for
SENATE BILL NO. _____
House bill # 38

(By Mr.)

PASSED *Mar - 9 -* 1963

In Effect *July 1 - 1963* Passage


Filed in Office of the Secretary of State
of West Virginia *3-16-63*
JOE F. BURDETT
SECRETARY OF STATE

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ENROLLED
SENATE COMMITTEE SUBSTITUTE
FOR
(Eng. Com. Sub. for)

House Bill No. 38

[Passed March 9, 1963; in effect July 1, 1963.]

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

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nine hundred thirty-one, as amended, be amended and reen-
acted to read as follows:

Section 2. Qualifications and Compensation of Mem-
2 **bers, Secretary, Steward and Employees.**—The compen-
3 sation of the members of the commission shall not exceed
4 the sum of forty 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 four thou-
7 sand dollars per annum in the aggregate for compensation.
8 The commission shall, under the restrictions and within
9 the qualifications hereinafter set forth, appoint a secretary
10 and steward, to represent the commission, and such addi-
11 tional help as shall be reasonably necessary to administer
12 the provisions of this article, and shall, within the limits
13 prescribed by the Legislature, fix their compensation and
14 actual expenses. The compensation and actual expenses
15 of the members and employees of the commission shall
16 be paid from the funds in the hands of the state treasurer
17 collected from the license tax on pari-mutuel wagering
18 and shall be itemized in the budget in the same manner
19 as all other departments of the state government, but no

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

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

27 (b) No person while serving as a member of the legis-
28 lature, or as an elective officer of this state, shall be eligi-
29 ble for appointment to the commission.

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

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

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

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

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

51 4. In any manner have delegated to him the duties and
52 powers of the members of the commission, as director or
53 supervisor of racing, or in any other manner or capacity
54 whatsoever, except such authority as shall be necessary
55 in order to carry out fully and effectively the reasonable
56 regulations adopted and promulgated by the commission,
57 may be delegated to employees and/or representatives
58 of the commission.

59 Any steward employed by the commission or by a li-
60 censee thereof, shall be a person of integrity, and experi-
61 enced and qualified for such position by the generally

62 accepted practices and customs of horse racing in the
63 United States.

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

Sec. 7. Per Diem Tax on Trucks; Tax on Pool Con-
2 tributions; How Taxes Paid; Financial Responsibility
3 of Licensees; Contents of Licenses.—Any person oper-
4 ating thoroughbred or running type racing, at any
5 horse race track one mile or more in length shall pay
6 each day upon which horse races are run, a license
7 tax of five hundred dollars; any race track less than
8 one mile in length shall pay for each day upon which

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9 horse races are run a license tax of two hundred fifty

10 dollars: *Provided*, That the per diem tax shall not apply

11 to horse shows or county fairs at which racing is con-

12 ducted for not more than six days. Any person licensed

13 by the commission to conduct thoroughbred or running

14 type racing and to permit and conduct pari-mutuel wager-

15 ing under this article shall, in addition to the aforemen-

16 tioned tax, pay to the racing commission of the state of

17 West Virginia a tax of five and three-fourths per cent

18 of the total contribution to all pari-mutuel pools con-

19 ducted or made at any and every race meeting licensed

20 under this article. Such payments shall be made to the

21 commission or its agent after the last race of each day

22 and every day of each and every race meeting, and shall

23 be made from all contributions to all pari-mutuel pools

24 to each and every race of the day, which payment shall

25 be deposited with the treasurer of the State of West Vir-

26 ginia to the credit of the general revenue fund: *Provided*,

27 *however*, That a person operating any duly licensed horse

28 race track, having an average daily pari-mutuel pool of

29 one hundred fifty thousand dollars or less, per day, for

30 the licensed race meetings, of the preceding calendar
31 year, shall, in lieu of payment of the five and three-
32 fourths per cent tax, paid to the state, from pari-mutuel
33 pools, as above provided, be permitted to conduct pari-
34 mutuel wagering at such horse race track, under this
35 article, on the basis of a daily tax which is fixed as fol-
36 lows: On a daily mutuel pool not exceeding one hundred
37 fifty thousand dollars the daily tax shall be four thousand
38 dollars plus five and three-fourths per cent of the daily
39 mutuel pool, if any, in excess of one hundred fifty thou-
40 sand dollars.

41 Any person making application for a license for a
42 meeting to be held on any track in the state of West
43 Virginia, shall, when required, furnish satisfactory evi-
44 dence to the commission of his or their ability to pay
45 license fees, purses, salaries of officials and other expenses
46 incident to the meeting. In the event the applicant is not
47 able to furnish such satisfactory evidence of his or their
48 ability to pay such expenses and fees, then the commis-
49 sion may require bond or other adequate security for not
50 more than four successive days before license is issued.

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51 When issuing any license under this article, the com-
52 mission shall designate upon the face of the license, the
53 kind or type of horse racing for which the same is issued,
54 the number of days the licensee is permitted to conduct
55 horse racing of any kind, the location of the place or
56 track or enclosure at which the horse racing thereby per-
57 mitted is to be conducted, and such other provisions and
58 conditions as the commission may wish to prescribe; no
59 kind or type of horse racing shall be conducted by licensee
60 other than that for which the license is issued.

Sec. 8. Disposition of Funds for Payment of Outstand-
2 **ing Pari-Mutuel Tickets; Award to Bona Fide Resident**
3 **and Owner of a Horse.**—All moneys held by any licensee
4 for payment of outstanding pari-mutuel tickets, if not
5 claimed within ninety days after the close of any race
6 meeting, shall be turned over by the licensee to the
7 commission within fifteen days after the expiration of
8 such ninety day period, and the licensee shall give such
9 information as the commission may require concerning
10 such outstanding and unredeemed tickets. All such
11 moneys shall be deposited by the commission and kept

12 by it in a special account to be known as "West Virginia
13 Racing Commission Special Account—Unredeemed Pari-
14 Mutuel Tickets." Notice of the amount, time and place
15 of such deposit shall be given by the commission, in
16 writing, to the state treasurer. The commission shall
17 cause to be published one time, in the week following
18 the close of any race meeting, in some newspaper of
19 general circulation in the county in which such race
20 meeting was held, a notice to the holders of such un-
21 redeemed tickets, notifying them to present such tickets
22 for the payment at the office of the commission in the city
23 of Charleston within ninety days from the date of the
24 publication of such notice.

25 Any such tickets that shall not be presented for pay-
26 ment within ninety days from the date of the publication
27 of the notice shall thereafter be irredeemable, and the
28 moneys theretofore held for the redemption of such tickets
29 shall become the property of the commission, and be de-
30 posited, as aforesaid, and be expended as follows:

31 To the owner of the winning horse in any horse race,
32 at any horse race track licensed in this state, provided

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33 that the owner of such horse is at the time, of such race,
34 a bona fide resident of this state, a sum equal to ten per
35 cent of the purse won by such horse.

36 To the breeder, that is the owner of the mare, of the
37 winning horse in any horse race, at any horse race track
38 licensed in this state, provided, that such breeder was, at
39 the time such winning horse was foaled, a bona fide resi-
40 dent of this state, a sum equal to ten per cent of the
41 purse won by such horse.

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

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

51 The cost for the publication of the notice provided for
52 by this section shall be paid from the funds in the hands
53 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;
3 Minors; Auditor.—A person licensed by the commission
4 shall permit only the pari-mutuel system of wagering
5 within the enclosure at which horse racing is held, and
6 the commission deducted by any thoroughbred or run-
7 ning horse race licensee from the said pari-mutuel pools
8 shall not exceed fifteen percent of the total pari-mutuel
9 pools for the day, including the license fee of the gross
10 amount handled hereinbefore provided for, plus the
11 breakage, which shall be made and calculated to the dime.
12 Such breakage shall be retained by the licensee.
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

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17 this paragraph shall be punishable by revocation of li-
18 cense.

19 An auditor of pari-mutuel pools shall be appointed by
20 the commission and shall be compensated by said commis-
21 sion. He shall be an experienced public accountant. Said
22 auditor shall have free access to the space or enclosure
23 where the pari-mutuel pool system of wagering is con-
24 ducted or calculated at any race meeting to which he
25 shall be assigned for the purpose of ascertaining whether
26 or not said licensee is retaining only the commission pro-
27 vided for in this section. He shall also, for the same pur-
28 poses only, have full and free access to all records and
29 papers pertaining to such pari-mutuel pool system of wa-
30 gering and shall report to the commission in writing,
31 under oath, whether or not the licensee has retained any
32 commissions in excess of those permitted under this
33 article.

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

C. Ray Parker
Chairman Senate Committee

Ethel L. Crandall
Chairman House Committee

Originated in the Senate.

Takes effect July 1 - 1963 passage.

Thomas Thyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Harvard W. Carson
President of the Senate

Julius W. Bightower Jr.
Speaker House of Delegates

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

W. W. Banton
Governor

