WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1975

ENROLLED
SENATE BILL NO. 58

(By Mr. [Signature])

PASSED November 3, 1975

In Effect [Specify number of days from Passage]

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 11/24/75
AN ACT to amend and reenact sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fifteen, sixteen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three and twenty-six, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to horse and dog racing; relating generally to the authorization and regulation of dog racing; relating to the West Virginia racing commission, its organization, operation and increased duties; providing for the regulation and control of horse and dog racing; requiring a license to hold or conduct a horse or dog race meeting; requiring a permit to engage in certain types of employment in connection with a horse or dog race meeting and establishing certain citizenship and residency requirements; providing definitions, adding definition of dog racing; establishing qualifications for members of the West Virginia racing commission; specifying and increasing the powers and authorities of the West Virginia racing commission; providing for the applications for and the issuance of licenses and permits; authorizing the West Virginia racing commission to promulgate reasonable rules and regulations; providing that the West Virginia racing commission may by reasonable rules and regulations authorize stewards, and other racing officials to impose reasonable fines or other sanctions and stewards to rule individuals off the grounds of any horse or dog racetrack;
relating to the compensation and increasing the same of the commissioners; relating to the expenses of the members of the racing commission; relating to the compensation and expenses of other employees of the West Virginia racing commission; relating to the purses in connection with horse or dog race meetings; authorizing the West Virginia racing commission to refuse, suspend or revoke a license or permit and establishing the grounds therefor; authorizing stewards to suspend or revoke a permit; relating to the determination of racing dates; authorizing the pari-mutuel system of wagering upon horse or dog races held or conducted under the regulation and control of the West Virginia racing commission and excepting such wagering from the gaming statutes; prohibiting minors from wagering at any horse or dog race-track; establishing the maximum commission which may be deducted from pari-mutuel pools by licensees of the West Virginia racing commission; providing for a specified deduction from the commission to establish regular purses for thoroughbred racing; providing for certain payments out of the maximum commission to be paid to counties in which thoroughbred or harness racetracks are located; establishing different maximum commissions which may be deducted from pari-mutuel pools resulting from thoroughbred racing, harness racing and dog racing; imposing a daily license tax for thoroughbred racing, harness racing and dog racing; imposing different pari-mutuel pool taxes on thoroughbred racing, harness racing and dog racing conducted under the regulation and control of the West Virginia racing commission; relating to the remitting of all daily license taxes and the pari-mutuel pool taxes to the West Virginia racing commission; relating to the payment of such taxes to a special account to fund teachers salaries; providing that such license tax is in lieu of all other taxes except a license tax which may be imposed by a municipality on a horse race-track located within such municipality; relating to the financial responsibility of the licensees of the West Virginia racing commission; relating to the retention and ultimate disposition of funds for the payment of outstanding and unredeemed pari-mutuel tickets; establishing procedures
for making such tickets unredeemable and providing for certain payments from the resulting funds; authorizing the West Virginia racing commission to hold hearings on the issuance, suspension or revocation of licenses and permits; providing expressly that the provisions of chapter twenty-nine-a of the code shall govern the promulgation of all reasonable rules and regulations and the holding of hearings; authorizing the West Virginia racing commission to issue subpoenas and subpoenas duces tecum; relating to hearing costs; providing an automatic stay or suspension of execution of certain orders; providing for judicial review of the decisions of the West Virginia racing commission made following hearings; relating to the stay or suspension of execution of decisions pending judicial determination; relating to the construction and establishment of horse or dog racetracks for horse or dog race meetings; requiring construction permit therefor; relating to administrative procedures and hearings in connection therewith; providing for local option elections and procedures in connection with and incidental to the construction and establishment of horse or dog racetracks; relating to criminal offenses and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fifteen, sixteen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three and twenty-six, 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 AND DOG RACING.

PART 1. LICENSE REQUIRED FOR HORSE AND DOG RACING AND PARI-MUTUEL WAGERING IN CONNECTION THEREWITH; PERMITS REQUIRED FOR CERTAIN HORSE AND DOG RACETRACK POSITIONS.

§19-23-1. License required for horse and dog racing and parimutuel wagering in connection therewith; exception.

1 (a) No association shall hold or conduct any horse or dog race meeting at which horse or dog racing is per-
mitted for any purse unless such association possesses a license therefor from the West Virginia racing commission and complies with the provisions of this article and all reasonable rules and regulations of such racing commission.

(b) Notwithstanding the provisions of subsection (a) of this section, the provisions of this article shall not be construed to prevent in any way the use without a license of any grounds, enclosure or racetrack owned and controlled by any association for any local, county or state fair, horse show or agriculture or livestock exposition, even though horse or dog racing be there conducted, if the pari-mutuel system of wagering upon the results of such horse or dog racing is neither permitted nor conducted with the knowledge or acquiescence of the association conducting such horse or dog racing.

§19-23-2. Permits required for horse and dog racetrack positions; residency requirements for employees of licensees.

(a) No person not required to be licensed under the provisions of section one of this article shall participate in or have anything to do with horse or dog racing for a purse or a horse or dog race meeting at any licensee's horse or dog racetrack, place or enclosure, where the pari-mutuel system of wagering upon the results of such horse or dog racing is permitted or conducted, as a horse owner, dog owner, jockey, apprentice jockey, exercise boy, kennel keeper, trainer, groom, plater, stable foreman, valet, veterinarian, agent, clerk of the scales, starter, assistant starter, timer, judge or pari-mutuel employee, or in any other capacity specified in reasonable rules and regulations of the racing commission unless such person possesses a permit therefor from the West Virginia racing commission and complies with the provisions of this article and all reasonable rules and regulations of such racing commission.

(b) At least eighty percent of the individuals employed by a licensee at any horse or dog race meeting must be citizens and residents of this state and must have been such citizens and residents for at least one year. For the
purpose of this subsection, citizens and residents of this
state shall be construed to mean individuals who maintain
a permanent place of residence in this state, and have
been bona fide residents and citizens of this state for a
period of one year immediately prior to the filing of their
applications for employment. The provisions of this
subsection shall not apply to individuals engaged in the
construction of a horse or dog racetrack or in the equipping of same, nor to racing officials designated by the
racing commission or racing officials designated by the
executive officials of a licensee.

PART II. DEFINITIONS; WEST VIRGINIA RACING
COMMISSION—ORGANIZATION AND OPERATION.


1 Unless the context in which used clearly requires a
different meaning, as used in this article:

2 (1) “Horse racing” means any type of horse racing,
including, but not limited to, thoroughbred racing and
harness racing;

3 (2) “Thoroughbred racing” means flat or running type
horse racing in which each horse participating therein is
a thoroughbred and is mounted by a jockey;

4 (3) “Harness racing” means horse racing in which the
horses participating therein are harnessed to a sulky, carriage or other vehicle, and shall not include any form of
horse racing in which the horses are mounted by jockeys;

5 (4) “Horse race meeting” means the whole consecutive
period of time, Sundays excluded, for which a license is
required by the provisions of section one of this article;

6 (5) “Dog racing” means any type of dog racing, in-
cluding, but not limited to greyhound racing;

7 (6) “Purse” means any purse, stake or award for which
a horse or dog race is run;

8 (7) “Racing association” or “person” means any indi-
vidual, partnership, firm, association, corporation or other
entity or organization of whatever character or descrip-
tion;

9 (8) “Applicant” means any racing association making
application for a license under the provisions of this article, or any person making application for a permit under the provisions of this article, or any person making application for a construction permit under the provisions of this article, as the case may be;

(9) “License” means the license required by the provisions of section one of this article;

(10) “Permit” means the permit required by the provisions of section two of this article;

(11) “Construction permit” means the construction permit required by the provisions of section eighteen of this article;

(12) “Licensee” means any racing association holding a license required by the provisions of section one of this article and issued under the provisions of this article;

(13) “Permit holder” means any person holding a permit required by the provisions of section two of this article and issued under the provisions of this article;

(14) “Construction permit holder” means any person holding a construction permit required by the provisions of section eighteen of this article and issued under the provisions of this article;

(15) “Hold or conduct” includes “assist, aid or abet in holding or conducting”;

(16) “Racing commission” means the West Virginia racing commission;

(17) “Stewards” means the steward or stewards representing the racing commission, the steward or stewards representing a licensee and any other steward or stewards, whose duty it shall be to supervise any horse or dog race meeting, all as may be provided by reasonable rules and regulations of the racing commission, and such reasonable rules and regulations shall specify the number of stewards to be appointed, the method and manner of their appointment and their powers, authority and duties;

(18) “Pari-mutuel” means a mutuel or collective pool that can be divided among those who have contributed their wagers to one central agency, the odds to be reckoned in accordance to the collective amounts wagered upon each contestant running in a horse or dog race upon
which the pool is made, but the total to be divided among
the first three contestants on the basis of the number of
wagers on these;
(19) "Pool" means a combination of interests in a joint
wagering enterprise, or a stake in such enterprise;
(20) "Legitimate breakage" is the percentage left over
in the division of a pool;
(21) "To the dime" means that wagers shall be figured
and paid to the dime; and
(22) "Code" means the code of West Virginia, one
thousand nine hundred thirty-one, as heretofore and here-
after amended.

§19-23-4. West Virginia racing commission continued as a
public corporation; composition; terms; vacancies;
qualifications, compensation and expenses of
members; principal office; meetings; election of
officers; quorum; inspection of records; annual
report.

(a) The "West Virginia racing commission," hereto-
fore created, shall continue in existence as a public cor-
poration, and, as such, may contract and be contracted
with, plead and be impleaded, sue and be sued and have
and use a common seal.

(b) The racing commission shall consist of three
members, not more than two of whom shall belong to
the same political party, to be appointed by the gov-
ernor by and with the advice and consent of the Senate.
The term of office for the members of such racing com-
mission shall be four years, and until their successors
have been appointed and have qualified, and members of
the racing commission may serve any number of suc-
cessive terms. The members of the racing commission
in office on the effective date of this article shall, unless
removed by the governor after the effective date of this
article, continue to serve until their terms expire and
until their successors have been appointed and have
qualified. Any vacancy in the office of a member of the
racing commission shall be filled by appointment by
the governor for the unexpired term of the member
whose office shall be vacant. No individual shall be
eligible for appointment to or to serve upon the racing
commission:
(1) Unless he is an actual and bona fide resident of
this state, shall have resided in this state for a period
of at least five years next preceding his appointment,
shall be a qualified voter of this state and be not less
than twenty-five years of age;
(2) Who directly or indirectly, or in any capacity,
owns or has any interest, in any manner whatever, in
any racetrack where horse or dog race meetings may
be held, including, but not limited to, an interest as
owner, lessee, lessee, stockholder or employee;
(3) While serving as a member of the Legislature or
as an elective officer of this state; or
(4) Who has been or shall be convicted of an offense
which, under the law of this state or any other state or
of the United States of America, constitutes a felony,
or is a violation of article four, chapter sixty-one of this
code.
(c) Each member of the racing commission shall
receive a salary of five thousand dollars per annum to
be paid in monthly installments and shall be reimbursed
for all reasonable and necessary expenses actually in-
curred in the performance of his duties as a member of
the racing commission.
(d) The racing commission shall have its principal
office at the seat of government, and shall meet annually
at its principal office in the month of January, and at
such other times and places as shall be designated by
its chairman. At such annual meeting the racing com-
mission shall elect from its membership a chairman and
such other officers as may be desired. Other meetings
of the racing commission may be called by the chair-
man on such notice to the other members as may be
prescribed by the racing commission.
(e) A majority of the members of the racing com-
mission shall constitute a quorum for the transaction
of its business or the exercise of any of its powers and
authority. No individual not a bona fide member of the
racing commission shall vote upon or participate in the
deliberations of the racing commission on any matter which may come before it. All racing commission records, except as otherwise provided by law, shall be open to public inspection during regular office hours.

(f) As soon as possible after the close of each calendar year, the racing commission shall submit to the governor a report of the transactions of the racing commission during the preceding calendar year.

PART III. RACING SECRETARY AND OTHER PERSONNEL AND EMPLOYEES OF RACING COMMISSION.

§19-23-5. Racing secretary and other personnel; qualifications; terms; powers and duties; compensation and expenses.

(a) The racing commission shall appoint a racing secretary to represent the racing commission and such racing secretary shall possess such powers and authority and perform such duties as the racing commission may direct or prescribe. The racing secretary shall preserve at the racing commission's principal office all books, maps, records, documents and other papers of the racing commission. The racing secretary shall, in addition to all other duties imposed upon him by the racing commission, serve in a liaison capacity between licensees and the racing commission. The racing commission may also employ, direct and define the duties of an assistant racing secretary and such stenographers, clerks and other office personnel as it may deem necessary to carry out the duties imposed upon it under the provisions of this article.

(b) In addition to the employees referred to above, the racing commission shall employ, direct and define the duties of a chief clerk, director of security, director of audit, chief chemist, stewards to represent the racing commission, supervisors of the pari-mutuel wagering conducted under the provisions of this article, veterinarians, inspectors, accountants, guards and all other employees deemed by the racing commission to be essential in connection with any horse or dog race meeting. The
 director of audit shall be a certified public accountant or experienced public accountant.

(c) No individual shall knowingly be employed or be continued in employment by the racing commission in any capacity whatever:

(1) Who directly or indirectly, or in any capacity, owns or has any interest, in any manner whatever, in any racetrack where horse or dog race meetings may be held, including, but not limited to, an interest as owner, lessor, lessee, stockholder or employee;

(2) Who at the time is or has 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; or

(3) Who has been or shall be convicted of an offense which, under the law of this state or any other state or of the United States of America, constitutes a felony, or is a violation of article four, chapter sixty-one of this code.

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

(d) The racing secretary and all other employees of the racing commission shall serve at the will and pleasure of the racing commission. The racing secretary and the other employees referred to in this section as employees of the racing commission shall receive such compensation as may be fixed by the racing commission within the limit of available funds, and shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(e) All compensation and reimbursement for expenses of the members of the racing commission, the racing secretary and all other employees of the racing commission shall be paid from the funds in the hands of the state treasurer collected under the provisions of this article and shall be itemized in the budget in the same manner as all other departments of state government, but no reimbursement for expenses incurred shall be paid unless an
itemized account thereof, under oath, be first filed with
the state auditor.

PART IV. POWERS AND AUTHORITY OF
RACING COMMISSION.


(a) The racing commission shall have full jurisdiction
over and shall supervise all horse race meetings, all
dog race meetings and all persons involved in the holding
or conducting of horse or dog race meetings, and, in
this regard, it shall have plenary power and authority:

(1) To investigate applicants and determine the eligi-
bility of such applicants for a license or permit or con-
struction permit under the provisions of this article;

(2) To fix, from time to time, the annual fee to be
paid to the racing commission for any permit required
under the provisions of section two of this article;

(3) To promulgate reasonable rules and regulations
implementing and making effective the provisions of
this article and the powers and authority conferred and
the duties imposed upon the racing commission under
the provisions of this article, including, but not limited
to, reasonable rules and regulations under which all
horse races, dog races, horse race meetings and dog race
meetings shall be held and conducted, all of which rea-
sonable rules and regulations shall be promulgated in
accordance with the provisions of article three, chapter
twenty-nine-a of this code;

(4) To register colors and assumed names and to fix,
from time to time, the annual fee to be paid to the racing
commission for any such registration;

(5) To fix and regulate the minimum purse to be
offered during any horse or dog race meeting;

(6) To fix a minimum and a maximum number of
horse races or dog races to be held on any respective
racing day;

(7) To enter the office, horse racetrack, dog race-
track, kennel, facilities and other places of business of
any licensee to determine whether the provisions of this
article and its reasonable rules and regulations are being
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35 complied with, and for this purpose, the racing com-
36 mission, its racing secretary, representatives and em-
37 ployees may visit, investigate and have free access to
38 any such office, horse racetrack, dog racetrack, kennel,
39 facilities and other places of business;
40 (8) To investigate alleged violations of the provisions
41 of this article, its reasonable rules and regulations, orders
42 and final decisions and to take appropriate disciplinary
43 action against any licensee or permit holder or construc-
44 tion permit holder for the violation thereof or institute
45 appropriate legal action for the enforcement thereof or
46 take such disciplinary action and institute such legal
47 action;
48 (9) By reasonable rules and regulations, to authorize
49 stewards, starters and other racing officials to impose
50 reasonable fines or other sanctions upon any person
51 connected with or involved in any horse or dog racing
52 or any horse or dog race meeting; and to authorize
53 stewards to rule off the grounds of any horse or dog
54 racetrack any tout, bookmaker or other undesirable indi-
55 vidual deemed inimicable to the best interests of horse
56 and dog racing or the pari-mutuel system of wagering
57 in connection therewith;
58 (10) To require at any time the removal of any
59 racing official or racing employee of any licensee, for
60 the violation of any provision of this article, any reason-
61 able rule and regulation of the racing commission or
62 for any fraudulent practice;
63 (11) To acquire, establish, maintain and operate, or
64 to provide by contract for the maintenance and operation
65 of, a testing laboratory and related facilities, for the
66 purpose of conducting saliva, urine and other tests on
67 the horse or dog or horses or dogs run or to be run in
68 any horse or dog race meeting, and to purchase all equip-
69 ment and supplies deemed necessary or desirable in
70 connection with the acquisition, establishment, main-
71 tenance and operation of any such testing laboratory
72 and related facilities and all such tests;
73 (12) To hold up, in any disputed horse or dog race,
74 the payment of any purse, pending a final determination
75 of the results thereof;
13

(13) To require each licensee to file an annual balance sheet and profit and loss statement pertaining to such licensee's horse or dog racing activities in this state, together with a list of each such licensee's stockholders or other persons having any beneficial interest in the horse or dog racing activities of such licensee;

(14) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records and other pertinent documents, and to administer oaths and affirmations to such witnesses, whenever, in the judgment of the racing commission, it is necessary to do so for the effective discharge of its duties under the provisions of this article;

(15) To keep accurate and complete records of its proceedings and to certify the same as may be appropriate; and

(16) To take such other action as may be reasonable or appropriate to effectuate the provisions of this article and its reasonable rules and regulations.

(b) The racing commission shall not interfere in the internal business or internal affairs of any licensee.

PART V. LICENSE AND PERMIT PROCEDURES.

§19-23-7. Application for license; forms; time for filing; disclosure required; verification; bond; application for permit.

(a) Any racing association desiring to hold or conduct a horse or dog race meeting, where the pari-mutuel system of wagering is permitted and conducted, during any calendar year, shall file with the racing commission an application for a license to hold or conduct such horse or dog race meeting. A separate application shall be filed for each separate license sought for each horse or dog race meeting which such applicant proposes to hold or conduct. The racing commission shall prescribe blank forms to be used in making such application. Such application shall be filed on or before a day to be fixed by the racing commission and shall disclose, but not be limited to, the following:
(1) If the applicant be an individual, the full name and address of the applicant;

(2) If the applicant be a partnership, firm or association, the full name and address of each partner or member thereof, the name of the partnership, firm or association and its post-office address;

(3) If the applicant be a corporation, its name, the state of its incorporation, its post-office address, the full name and address of each officer and director thereof, and if a foreign corporation, whether it is qualified to do business in this state;

(4) The dates such applicant intends to hold or conduct such horse or dog race meeting (which shall be successive weekdays, excluding Sundays);

(5) The location of the horse or dog racetrack, place or enclosure where such applicant proposes to hold or conduct such horse or dog race meeting;

(6) Whether the applicant, any partner, member, officer or director has previously applied for a license under the provisions of this article or for a similar license in this or any other state, and if so, whether such license was issued or refused, and, if issued, whether it was ever suspended or revoked; and

(7) Such other information as the racing commission may reasonably require which may include information relating to any criminal record of the applicant, if an individual, or of each partner or member, if a partnership, firm or association, or of each officer and director, if a corporation.

(b) Such application shall be verified by the oath or affirmation of the applicant for such license, if an individual, or if the applicant is a partnership, firm, association or corporation, by a partner, member or officer thereof, as the case may be. When required by the racing commission, an applicant for a license shall also furnish evidence satisfactory to the racing commission of such applicant's ability to pay all taxes due the state, purses, salaries of officials and other expenses incident to the horse or dog race meeting for which a license is sought. In the event the applicant is not able to furnish such satis-
factory evidence of such applicant's ability to pay such
expenses and fees, the racing commission may require
bond or other adequate security before the requested li-
cense is issued.

(c) Any person desiring to obtain a permit, as required
by the provisions of section two of this article, shall make
application therefor on a form prescribed by the racing
commission. The application for any such permit shall be
accompanied by the fee prescribed therefor by the racing
commission. Each applicant for a permit shall set forth in
the application such information as the racing commission
shall reasonably require.

§19-23-8. Consideration of application for license or permit;
issuance or denial; contents of license or permit;
grounds for denial of application; determination
of racing dates; license or permit not transferable
or assignable; limitation on license; validity of
permit.

(a) The racing commission shall promptly consider
any application for a license or permit, as the case may
be. Based upon such application and all other informa-
tion before it, the racing commission shall make and
enter an order either approving or denying such appli-
cation. The application shall be denied for any reason
specified in subsection (b) of this section. If an applica-
tion for a license is approved, the racing commission
shall issue a license to conduct a horse or dog race meet-
ing, and shall designate on the face of such license the
kind or type of horse or dog racing for which the same
is issued, the racing association to which the same is
issued, the dates upon which such horse or dog race
meeting is to be held or conducted (which shall be suc-
cessive weekdays, or weeknights, excluding Sundays),
the location of the horse or dog racetrack, place or en-
closure where such horse or dog race meeting is to be
held or conducted and such other information as the
racing commission shall deem proper. If an application
for a permit is approved, the racing commission shall
issue a permit and shall designate on the face of such
permit such information as the racing commission shall
deem proper.

(b) The racing commission shall deny the application
and refuse to issue the license or permit, as the case
may be, which denial and refusal shall be final and con-
clusive unless a hearing is demanded in accordance with
the provisions of section sixteen of this article, if the
racing commission finds that the applicant (individually,
if an individual, or the partners or members, if a partner-
ship, firm or association, or the owners and directors, if
a corporation):

(1) Has knowingly made false statement of a material
fact in the application or has knowingly failed to dis-
close any information called for in the application;

(2) Is or has been guilty of any corrupt or fraudulent
act, practice or conduct in connection with any horse
or dog race meeting in this or any other state;

(3) Has been convicted, within ten years prior to
the date of such application, of an offense which under
the law of this state, of any other state or of the United
States of America, shall constitute a felony or a crime
involving moral turpitude;

(4) Has failed to comply with the provisions of this
article or any reasonable rules and regulations of the
racing commission;

(5) Has had a license to hold or conduct a horse or
dog race meeting or a permit to participate therein
denied for just cause, suspended or revoked in any other
state;

(6) Has defaulted in the payment of any obligation
or debt due to this state under the provisions of this
article;

(7) Is, if a corporation, neither incorporated under
the laws of this state nor qualified to do business within
this state;

(8) In the case of an application for a license, has
failed to furnish bond or other adequate security, if
the same is required by the racing commission under
the provisions of section seven of this article;
(9) In the case of an application for a permit, is unqualified to perform the duties required for the permit sought; or 

(10) In the case of an application for a permit, is, for just cause, determined to be undesirable to perform the duties required of such applicant. 

(c) In issuing licenses and fixing dates for horse or dog race meetings at the various horse racetracks and dog racetracks in this state, the racing commission shall consider the horse racing circuits and dog racing circuits with which the horse racetracks and dog racetracks in this state are associated or contiguous to, and shall also consider dates which are calculated to increase the tax revenues accruing from horse racing and dog racing. 

(d) A license issued under the provisions of this article is neither transferable nor assignable to any other racing association and shall not permit the holding or conducting of a horse or dog race meeting at any horse or dog racetrack, place or enclosure not specified thereon. However, if the specified horse or dog racetrack, place or enclosure becomes unsuitable for the horse or dog race meeting because of flood, fire or other catastrophe, or cannot be used for any reason, the racing commission may, upon application, authorize the horse or dog race meeting, or any remaining portion thereof, to be conducted at any other racetrack, place or enclosure available for that purpose, provided that the owner of such racetrack, place or enclosure willingly consents to the use thereof. 

(e) No type of horse racing or dog racing shall be conducted by a licensee at any race meeting other than that type for which a license was issued. 

(f) Each permit issued under the provisions of this section shall be for the period ending December thirty-first of the year for which it was issued, and shall be valid at all horse or dog race meetings during the period for which it was issued, unless it be sooner suspended or revoked in accordance with the provisions of this article. A permit issued under the provisions of this
101 article is neither transferable nor assignable to any other
102 person.

PART VI. PARI-MUTUEL SYSTEM OF WAGERING
AUTHORIZED; COMMISSIONS DEDUCTED FROM
PARI-MUTUEL POOLS.

§19-23-9. Pari-mutuel system of wagering authorized; licensee
authorized to deduct commissions from pari-
mutuel pools; retention of breakage; auditing;
minors.

(a) The pari-mutuel system of wagering upon the
results of any horse or dog race at any horse or dog race
meeting conducted or held by any licensee is hereby
authorized, if and only if such pari-mutuel wagering is
conducted by such licensee within the confines of such
licensee's horse racetrack or dog racetrack, and the pro-
visions of section one, article ten, chapter sixty-one of this
code, relating to gaming, shall not apply to the pari-
mutuel system of wagering in manner and form as pro-
vided for in this article at any horse or dog race meeting
within this state where horse or dog racing shall be per-
mitted for any purse by any licensee. A licensee shall
permit or conduct only the pari-mutuel system of wager-
ing within the confines of such licensee's racetrack at
which any horse or dog race meeting is conducted or

(b) A licensee is hereby expressly authorized to deduct
a commission from the pari-mutuel pools, as follows:

(1) The commission deducted by any licensee from the
pari-mutuel pools on thoroughbred horse racing shall not
exceed seventeen and one-fourth percent of the total of
such pari-mutuel pools for the day. Out of such commis-
sion, the licensee shall pay the pari-mutuel pools tax
provided for in subsection (b), section ten of this article,
and shall deposit five and seventy-five one hundredths
percent of such pari-mutuel pools into a special fund to be
established by the licensee and to be used for the pay-
ment of regular purses offered for thoroughbred racing by
the licensee, and shall pay one tenth of one percent of
such pari-mutuel pools into the general fund of the
county commission of the county in which the racetrack is located, except if within a municipality, then to such municipal general fund. The remainder of the commission shall be retained by the licensee.

(2) The commission deducted by any licensee from the pari-mutuel pools on harness racing shall not exceed seventeen and one-half percent of the total of such pari-mutuel pools for the day. Out of such commission, the licensee shall pay the pari-mutuel pools tax provided for in subsection (c), section ten of this article, and shall pay one tenth of one percent into the general fund of the county commission of the county in which the racetrack is located, except if within a municipality, then to such municipal general fund. The remainder of the commission shall be retained by the licensee.

(3) The commission deducted by any licensee from the pari-mutuel pools on dog racing shall not exceed sixteen percent of the total of such pari-mutuel pools for the day. Out of such commission, the licensee shall pay the pari-mutuel pools tax provided for in subsection (d), section ten of this article. The remainder of the commission shall be retained by the licensee.

(c) In addition to any such commission, a licensee of horse race or dog race meetings shall also be entitled to retain the legitimate breakage, which shall be made and calculated to the dime.

(d) The director of audit, and any other auditors employed by the racing commission who shall also be certified public accountants or experienced public accountants, shall have free access to the space or enclosure where the pari-mutuel system of wagering is conducted or calculated at any horse or dog race meeting for the purpose of ascertaining whether or not the licensee is deducting and retaining only a commission as provided in this section and is otherwise complying with the provisions of this section. They shall also, for the same purposes only, have full and free access to all records and papers pertaining to such pari-mutuel system of wagering, and shall report to the racing commission in writing, under oath, whether or not the licensee has
deducted and retained any commission in excess of that permitted under the provisions of this section or has otherwise failed to comply with the provisions of this section.

(e) No licensee shall permit or allow any individual under the age of eighteen years to wager at any horse or dog racetrack, knowing or having reason to believe that such individual is under the age of eighteen years.

PART VII. TAXATION OF HORSE AND DOG RACING AND PARI-MUTUEL WAGERING; DISPOSITION OF REVENUES.

§19-23-10. Daily license tax; pari-mutuel pools tax; how taxes paid.

(a) Any racing association conducting thoroughbred racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of two hundred fifty dollars. Any racing association conducting harness racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of one hundred fifty dollars. Any racing association conducting dog races shall pay each day upon which dog races are run a daily license tax of one hundred fifty dollars. In the event thoroughbred racing, harness racing, dog racing, or any combination of the foregoing are conducted on the same day at the same racetrack by the same racing association, only one daily license tax in the amount of two hundred fifty dollars shall be paid for that day. Any such daily license tax shall not apply to any local, county or state fair, horse show or agricultural or livestock exposition at which horse racing is conducted for not more than six days.

(b) Any racing association licensed by the racing commission to conduct thoroughbred racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the aforementioned daily license tax, pay to the racing commission, from the commission deducted each day by such licensee from the pari-mutuel pools on thoroughbred racing, as a tax, five and three-fourths percent of the total contri-
bution to all such pari-mutuel pools conducted or made at any and every thoroughbred race meeting of the licensee licensed under the provisions of this article:

Provided, That any such racing association operating a horse racetrack in this state having an average daily pari-mutuel pool on horse racing of one hundred fifty thousand dollars or less, per day, for the race meetings, of the preceding calendar year, shall, in lieu of payment of the five and three-fourths percent pari-mutuel pool tax as aforesaid be permitted to conduct pari-mutuel wagering at such horse racetrack on the basis of a daily pari-mutuel pool tax fixed as follows: On the daily pari-mutuel pool not exceeding one hundred fifty thousand dollars the daily pari-mutuel pool tax shall be four thousand dollars plus five and three-fourths percent of the daily pari-mutuel pool, if any, in excess of one hundred fifty thousand dollars.

(c) Any racing association licensed by the racing commission to conduct harness racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the aforementioned daily license tax, pay to the racing commission, from the commission deducted each day by the licensee from the pari-mutuel pools on harness racing, as a tax, three percent of the first one hundred thousand dollars wagered, or any part thereof; four percent of the next one hundred fifty thousand dollars; and five and three-fourths percent of all over that amount wagered each day in all such pari-mutuel pools conducted or made at any and every harness race meeting of the licensee licensed under the provisions of this article.

(d) Any racing association licensed by the racing commission to conduct dog racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the aforementioned daily license tax, pay to the racing commission, from the commission deducted each day, by such licensee from the pari-mutuel pools on dog racing, as a tax, four percent of the first fifty thousand dollars or any part thereof of such pari-mutuel pools, five percent of the next fifty thousand
dollars of such pari-mutuel pools, six percent of the next one hundred thousand dollars of such pari-mutuel pools, seven percent of the next one hundred fifty thousand dollars of such pari-mutuel pools, and eight percent of all over three hundred fifty thousand dollars wagered each day.

(e) All daily license and pari-mutuel pools tax payments required under the provisions of this section shall be made to the racing commission or its agent after the last race of each day of each horse or dog race meeting, and the pari-mutuel pools tax payments shall be made from all contributions to all pari-mutuel pools to each and every race of the day.

§19-23-11. Revenues from horse racing and dog racing to be paid into the general revenue fund; revenues from horse racing and dog racing to be paid into special account to fund teachers salaries.

(a) All revenues collected pursuant to the provisions of this article as license taxes or pari-mutuel pool taxes on horse racing and dog racing shall be paid by the racing commission to the state treasurer and be deposited by him to the credit of the general revenue fund of the state. Remittance of all such collected and accrued revenues shall be made by the racing commission to the state treasurer at least one time during each thirty-day period of the racing season, and a final remittance as to any particular horse race meeting shall be made within thirty days from and after the close of each such horse race meeting. The provisions of this subsection shall expire June 30, 1976.

(b) Effective July 1, 1976, all revenues collected pursuant to the provisions of this article as license taxes or pari-mutuel pools taxes on horse racing and dog racing shall be paid by the racing commission to the state treasurer, who shall deposit such revenues in a special account to be denominated by him. The revenues in such special account shall be accumulated and used for the sole purpose of providing funding for salaries for professional educators. Remittance of all such collected revenues shall be made by the racing commission to the
§19-23-12. License tax to be in lieu of all other license, etc.,
taxes; exception.

The license tax imposed in section ten of this article
shall be in lieu of all other license, income, excise, special
or franchise taxes of this state, and no county or mu-
unicipality or other political subdivision of this state shall
be empowered to levy or impose any license, income,
pari-mutuel, excise, special or franchise tax on any racing
association engaged in the business of conducting a horse
or dog race meeting at which horse or dog races are
run for purses under the jurisdiction of and being
licensed by the racing commission, or on the operation
or maintenance of the pari-mutuel system of wagering,
or on the sale of any commodity during a horse or dog
race meeting at which horse or dog races are run, or
at any such horse or dog racetrack: Provided, That the
foregoing provisions of this section shall in no way affect,
abridge or abolish the authority of a municipality to
impose the license tax authorized by the provisions of
section eight, article thirteen, chapter eight of this
code.

PART VIII. DISPOSITION OF FUNDS FOR PAYMENT
OF OUTSTANDING AND UNREDEEMED PARI-MUTUEL
TICKETS; IRREDEEMABLE TICKETS; AWARDS.

§19-23-13. Disposition of funds for payment of outstanding
and unredeemed pari-mutuel tickets; publication
of notice; irredeemable tickets; awards to resi-
dent owners, etc., of winning horses and dogs.

(a) All moneys held by any licensee for the payment
of outstanding and unredeemed pari-mutuel tickets, if
not claimed within ninety days after the close of the
horse or dog race meeting in connection with which the
tickets were issued, shall be turned over by the licensee
to the racing commission within fifteen days after the
expiration of such ninety-day period, and the licensee
shall give such information as the racing commission
may require concerning such outstanding and unre-
deemed tickets. All such moneys shall be deposited by
the racing commission in a banking institution of its
choice in a special account to be known as “West Vir-
ginia Racing Commission Special Account—Unredeemed
Pari-Mutuel Tickets.” Notice of the amount, date and
place of such deposit shall be given by the racing com-
mission, in writing, to the state treasurer. The racing
commission shall then cause to be published a notice
to the holders of such outstanding and unredeemed pari-
mutuel tickets, notifying them to present such tickets
for payment at the principal office of the racing com-
mission within ninety days from the date of the pub-
llication of such notice. Such notice shall be published
within fifteen days following the receipt of said moneys
by the commission from the licensee as a Class I legal
advertisement in compliance with the provisions of ar-
ticle three, chapter fifty-nine of this code, and the pub-
lication area for such publication shall be the county
in which such horse or dog race meeting was
held.

(b) Any such pari-mutuel 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 pari-mutuel tickets shall become
the property of the racing commission, and shall be ex-
pended as follows:

(1) To the owner of the winning horse in any horse
race at a horse race meeting held or conducted by any
licensee: Provided, That the owner of such horse is at
the time of such horse race a bona fide resident of this
state, a sum equal to ten percent of the purse won by
such horse; the commission may require proof that the
owner was at the time of the race, a bona fide resident
of this state. Upon proof by the owner that he filed a
personal income tax return in this state for the previous
two years and that he owned real or personal property
in this state and paid taxes in this state on said prop-
erty for the two previous years, he shall be presumed
to be a bona fide resident of this state.

(2) To the breeder (that is, the owner of the mare)
of the winning horse in any horse race at a horse race
meeting held or conducted by any licensee: 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 percent of the purse won by such horse;
and

(3) To the owner of the stallion which sired the
winning horse in any horse race at a horse race meeting
held or conducted by any licensee: 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 percent of the purse won by
such horse; and

(4) When the moneys in the special account, known
as the “West Virginia Racing Commission Special Ac-
count—Unredeemed Pari-Mutuel Tickets” will more than
satisfy the requirements of subsections (b) (1) and (2)
of section thirteen, the West Virginia racing commis-
sion shall have the authority to expend the excess
moneys from unredeemed horse racing pari-mutuel
tickets as purse money in any race conditioned exclu-
sively for West Virginia bred or sired horses, and to
expend the excess moneys from unredeemed dog racing
pari-mutuel tickets in supplementing purses and estab-
lishing dog racing handicaps at the dog tracks.

(c) Nothing contained in this article shall prohibit
one person from qualifying for all or more than one
of the aforesaid.

(d) The cost of publication of the notice provided
for in this section shall be paid from the funds in the
hands of the state treasurer collected from the pari-
mutuel pools tax provided for in section ten of this
article, when not otherwise provided in the budget; but
no such costs shall be paid unless an itemized account
thereof, under oath, be first filed with the state auditor.
PART X. HEARING PROCEDURES; JUDICIAL REVIEW.

§19-23-15. Investigation by racing commission; suspension or revocation of license or permit.

(a) The racing commission may conduct an investigation to determine whether any provisions of this article or any of its reasonable rules and regulations have been or are about to be violated by a licensee or permit holder. The racing commission may suspend or revoke a license or permit if the licensee or permit holder, as the case may be:

(1) Is convicted of an offense which under the law of this state, of any other state or of the United States of America, shall constitute a felony or a crime involving moral turpitude;

(2) Is, if a corporation, dissolved under the law of this state or ceases to be qualified to do business within this state; or

(3) Has a license or permit to which such licensee or permit holder is not lawfully entitled.

(b) The racing commission may also suspend or revoke a license or permit of a licensee or permit holder, as the case may be, if it finds the existence of any ground upon which the license or permit could have been refused, or any ground which would be cause for refusing a license or permit to such licensee or permit holder were such licensee or permit holder then applying for the same.

(c) A majority of the stewards at any horse or dog race meeting may suspend or revoke a permit for any reason for which the racing commission may suspend or revoke a permit, as specified in subsections (a) and (b) of this section, or for any other reason authorized by reasonable rules and regulations promulgated by the racing commission.

(d) Whenever a licensee fails to keep the bond required, if any, under the provisions of section seven of this article in full force and effect, the license of such licensee shall automatically be suspended unless and until a bond or other security, if required, is furnished
(e) Any suspension of a license or permit shall continue for the period specified in the order of suspension, or until the cause therefor has been eliminated or corrected, as set forth in the order of suspension. Revocation of a license or permit shall not preclude application for a new license or permit, which application shall be processed in the same manner and the application approved or denied and the license or permit issued or refused on the same grounds as any other application for a license or permit is processed, considered and passed upon, except that any previous suspension and the revocation may be given such weight in deciding whether to approve or deny such application and issue or refuse such license or permit as is meet and proper under all of the circumstances.

§19-23-16. Entry of order suspending or revoking license or permit; service of order; contents; hearing; decision to be in writing.

(a) Whenever the racing commission shall deny an application for a license or a permit or shall suspend or revoke a license or a permit, it shall make and enter an order to that effect and serve a copy thereof on the applicant, licensee or permit holder, as the case may be, in any manner in which a summons may be served in a civil action or by certified mail, return receipt requested. Such order shall state the grounds for the action taken, and, in the case of an order of suspension or revocation, shall state the effective date of such suspension or revocation.

(b) Whenever a majority of the stewards at any horse or dog race meeting shall suspend or revoke a permit, such suspension or revocation shall be effective immediately. The stewards shall, as soon as thereafter practicable, make and enter an order to that effect and serve a copy thereof on the permit holder, in any manner in which a summons may be served in a civil action or by certified mail, return receipt requested. Such order shall state the grounds for the action taken.
(c) Any person adversely affected by any such order shall be entitled to a hearing thereon if, within twenty days after service of a copy thereof if served in any manner in which a summons may be served as aforesaid or within twenty days after receipt of a copy thereof if served by certified mail as aforesaid, such person files with the racing commission a written demand for such hearing. A demand for hearing shall operate automatically to stay or suspend the execution of any order suspending or revoking a license, but a demand for hearing shall not operate to stay or suspend the execution of any order suspending or revoking a permit. The racing commission may require the person demanding such hearing to give reasonable security for the costs thereof and if such person does not substantially prevail at such hearing such costs shall be assessed against such person and may be collected by an action at law or other proper remedy.

(d) Upon receipt of a written demand for such hearing, the racing commssion shall set a time and place therefor not less than ten and not more than thirty days thereafter. Any scheduled hearing may be continued by the racing commission upon its own motion or for good cause shown by the person demanding the hearing.

(e) All of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in this subsection.

(f) Any such hearing shall be conducted by a quorum of the racing commission. For the purpose of conducting any such hearing, any member of the racing commission shall have the power and authority to issue subpoenas and subpoenas duces tecum as provided for in section six of this article. Any such subpoenas and subpoenas duces tecum shall be issued and served within the time, for the fees and shall be enforced, as specified in section one, article five of said chapter twenty-nine-a, and all of the said section one provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder.
(g) At any such hearing the person who demanded
the same may represent such person’s own interests or
be represented by an attorney at law admitted to practice
before any circuit court of this state. Upon request by
the racing commission, it shall be represented at any such
hearing by the attorney general or his assistants without
additional compensation. The racing commission, with the
written approval of the attorney general, may employ
special counsel to represent the racing commission at any
such hearing.

(h) After any such hearing and consideration of all of
the testimony, evidence and record in the case, the racing
commission shall render its decision in writing. The writ-
ten decision of the racing commission shall be accom-
panied by findings of fact and conclusions of law as speci-
fied in section three, article five, chapter twenty-nine-a
of this code, and a copy of such decision and accompany-
ing findings and conclusions shall be served by certified
mail, return receipt requested, upon the person demanding
such hearing, and his attorney of record, if any.

(i) The decision of the racing commission shall be
final unless reversed, vacated or modified upon judicial
review thereof in accordance with the provisions of sec-
tion seventeen of this article.

PART XI. CONSTRUCTION AND ESTABLISHMENT OF
HORSE AND DOG RACETRACKS.

§19-23-18. Horse and dog racetrack construction permits;
application therefor.

(a) No person shall construct and establish a horse
or dog racetrack where horse or dog race meetings are
to be held or conducted and the pari-mutuel system of
wagering permitted or conducted without a construction
permit issued by the racing commission in accordance
with the provisions of this article.

(b) Any person desiring to obtain a construction per-
mit shall file with the racing commission an application
therefor. The racing commission shall prescribe blank
forms to be used in making such application. Such appli-
cation shall disclose, but not be limited to, the following:
(1) If the applicant be an individual, the full name and address of the applicant;

(2) If the applicant be a partnership, firm or association, the full name and address of each partner or member thereof, the name of the partnership, firm or association and its post-office address;

(3) If the applicant be a corporation, its name, the state of its incorporation, its post-office address, the full name and address of each officer and director thereof, and if a foreign corporation, whether it is qualified to do business in this state;

(4) Whether the applicant, any partner, member, officer or director has previously applied for a construction permit under the provisions of this article or for a similar construction permit in this or any other state, and if so, whether such construction permit was issued or refused;

(5) The name and address of any person who has agreed to lend the applicant money for use in connection with such proposed horse or dog racetrack;

(6) The name and address of any other person who is financially interested in the proposed horse or dog racetrack;

(7) The county where the proposed horse or dog racetrack is to be constructed and established, and if such proposed horse or dog racetrack is to be constructed and established across county lines, the identification of each such county;

(8) Plans showing, in such detail as the racing commission may require, the proposed horse or dog racetrack and all buildings and improvements to be used in connection therewith; and

(9) Such other information as the racing commission may reasonably require which may include information relating to any criminal record of the applicant, if an individual, or of each partner or member, if a partnership, firm or association, or of each officer and director, if a corporation.

(c) Such application shall be verified by the oath or affirmation of the applicant for such construction permit,
if an individual, or if the applicant is a partnership, firm, association or corporation, by a partner, member or officer thereof, as the case may be.

(d) No application for a construction permit for the construction and establishment of a dog racetrack shall be received or acted upon by or a construction permit issued by the racing commission for the construction and establishment of a dog racetrack which is to be located within fifty-five air miles of an existing horse racetrack: "Provided, That nothing herein contained shall be construed to prohibit establishment of a dog racetrack in conjunction with harness racetrack facilities existing on and operating as a harness racetrack the first day of February, one thousand nine hundred seventy-four, if such facilities are or can be made suitable: "Provided, That nothing in this section exempts any such county from the local option provisions of this article.

§19-23-19. Tentative approval of application for construction permit; denial of application; publication of notice.

(a) Upon the basis of the application and all other information before it, the racing commission shall make and enter an order granting tentative approval of the application if it finds:

(1) That the applicant intends to proceed in good faith to construct and establish a horse or dog racetrack complying in all particulars with the law of this state, the provisions of this article and any reasonable rules and regulations of the racing commission;

(2) That the plans for such proposed horse or dog racetrack are adequate and have been prepared with due regard to the safety of all persons who will use such horse or dog racetrack;

(3) That the applicant is financially able to complete such horse or dog racetrack in accordance with the plans submitted with such application; and

(4) That the construction and establishment of such proposed horse or dog racetrack would be in the best interests of horse or dog racing within this state.
(b) Otherwise, the racing commission shall deny the application and refuse to grant tentative approval thereof. The racing commission shall make and enter an order to that effect and all of the provisions of section sixteen pertaining to the denial of any application for a license and an order in connection therewith and the provisions of section seventeen pertaining to judicial review of a decision of the racing commission shall govern and control. The denial and refusal shall be final and conclusive unless a hearing thereon shall be demanded pursuant to the provisions of section sixteen of this article considered in pari materia with the preceding sentence of this subsection (b).

(c) If the racing commission grants tentative approval of such application, it shall prepare and publish a notice to the public that the racing commission has granted tentative approval of the application and that the racing commission will confirm such tentative approval and issue a construction permit to the applicant at the expiration of sixty days from the date of the first publication of such notice (which date shall be specified in said notice), unless within said time a petition for a local option election shall have been filed, in accordance with the provisions of this article, with the county commission of the county in which any integral part of said horse or dog racetrack is proposed to be constructed and established. Such notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which any integral part of such proposed horse or dog racetrack is to be constructed and is established.

§19-23-20. Petition for local option election.

A petition for a local option election on the question of the proposed construction and establishment of a horse or dog racetrack must be signed by qualified voters residing within the county equal to at least fifteen percent of the qualified voters within said county at the last general election. Said petition may be in any number of counterparts, but must be filed with the county
commission prior to the expiration of the sixty-day period specified in the notice published by the racing commission in accordance with the provisions of section nineteen of this article. Said petition shall be sufficient if in substantially the following form:

“PETITION FOR LOCAL OPTION ELECTION CONCERNING THE PROPOSED CONSTRUCTION AND ESTABLISHMENT OF A (HORSE OR DOG) RACE-TRACK IN __________________________ COUNTY, WEST VIRGINIA.

“Each of the undersigned certifies that he or she is an individual residing in _________________ County, West Virginia, and is a qualified voter in said county under the laws of this State, and that his or her name, address and the date of signing this petition are correctly set forth below.

“The undersigned petition the county commission to call and hold a local option election as required by article twenty-three, chapter nineteen of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, upon the following question: ‘Shall the West Virginia Racing Commission issue a construction permit authorizing the construction and establishment of a (horse or dog) racetrack where (horse or dog) race meetings may be held or conducted and the pari-mutuel system of wagering permitted and conducted in _________________ County, West Virginia?’

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(Each individual signing must specify either his post-office address or his street name and number.)

§19-23-21. Local option election procedure; form of ballots or ballot labels.

(a) Upon the timely filing of a proper petition for a local option election in accordance with the provisions of section twenty of this article, the county commission of the county in which all or any integral part of a pro-
posed horse or dog racetrack is to be constructed and established is hereby authorized to call a local option election for the purpose of determining the will of the qualified voters within said county as to the construction and establishment of all or any integral part of such horse or dog racetrack within said county. Upon the timely filing of a proper petition as aforesaid, the county commission shall enter an order calling for a local option election and providing that the same shall be held at the same time and as a part of the next primary or general election to be held in said county. A copy of the order so entered by the county commission shall be served upon the racing commission and the racing commission shall take no further action in connection with the issuance of such construction permit until said local option election shall be held. Said county commission shall give notice of such local option election by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. Such notice shall be so published within fourteen consecutive days next preceding the date of said election.

(b) The local option election ballots, or ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the West Virginia Racing Commission issue a construction permit authorizing the construction and establishment of a (horse or dog) racetrack where (horse or dog) race meetings may be held or conducted and the pari-mutuel system of wagering permitted and conducted?

☐ Yes ☐ No

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

(c) Each individual qualified to vote in said county at a primary or general election shall likewise be qualified to vote at the local option election. The election officers appointed and qualified to serve as such at said primary or general election shall conduct said local option election in connection with and as a part of said
primary or general election. The votes in said local
option election shall be counted and returns made by
the election officers, the results certified by the com-
mmissioners of election to said county commission which
shall canvass the ballots, all in accordance with the laws
of this state relating to primary and general elections
insofar as the same are applicable. The county com-
mission shall, without delay, canvass the votes cast at
such local option election and certify the results thereof
to the racing commission.

§19-23-22. Issuance or nonissuance of construction permit;
duration of construction permit; transfer and
assignment of a construction permit.

  (a) The racing commission shall, after the certification
of the results of such local option election, issue such
construction permit if a majority of the legal votes cast
at such election were in favor of the issuance of a con-
struction permit. If a majority of the legal votes cast at
such election were opposed to the issuance of a construc-
tion permit, the commission shall not issue a construction
permit.

  (b) A construction permit issued as aforesaid shall re-
main valid only for a three-month period, except that if
the racing commission is satisfied that the construction
permit holder has in good faith started and is continuing
construction of the proposed horse or dog racetrack, the
racing commission may extend the construction permit
for additional successive three-month periods, but in no
event shall the aggregate time of such construction permit
exceed a period of twenty-four months from the date of
the issuance of the construction permit.

  (c) No construction permit which may be or has been
issued under provisions of this article or the former pro-
visions of this article shall be transferred or assigned
in any manner whatever without the written consent of
the racing commission.

§19-23-23. Further elections restricted.

  When a local option election in accordance with the
provisions of this article or the former provisions of this
article shall have been held in a county, another such
election shall not be held in said county for a period of five years, and within that time the racing commission shall not accept or act upon any application for any other construction permit within said county, except that if an election be held seeking the approval of a permit for the construction of a horse racetrack another election may be held within such five-year period seeking the approval of a permit for the construction of a dog racetrack, and the reverse shall also be true. In the event a horse or dog racetrack shall be constructed in a county pursuant to a construction permit issued by the racing commission in accordance with the provisions of this article, no local option election shall thereafter be held as to any horse or dog racetrack constructed and established pursuant to such construction permit: Provided, That a local option election has been held for the type of racing to be conducted.

PART XIII. OFFENSES AND PENALTIES.

§19-23-26. Offenses and penalties.

(a) Any person holding or conducting, or assisting, aiding or abetting in the holding or conducting, of any horse or dog race meeting at which horse or dog racing and the pari-mutuel system of wagering on the same is permitted or conducted, without a license issued by the racing commission, which license remains unexpired, unsuspended and unrevoked, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine or not less than one thousand dollars for each day of such unauthorized horse or dog race meeting, or by imprisonment in jail not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: Provided, That no conviction shall be had or punishment imposed upon any licensee, whose license has been suspended or revoked, for holding or conducting a horse or dog race meeting while execution of the order of suspension or revocation is stayed or suspended as provided in this article.

(b) Any person violating any provision of section four or section five of this article shall be guilty of a misde-
meanor, and, upon conviction, shall be punished by a
fine of not less than five hundred dollars nor more than
one thousand dollars, or by imprisonment in jail for not
less than six months nor more than one year, or by both
such fine and imprisonment, in the discretion of the court.
The venue of any such offense shall be in the county, or
any one of the counties, wherein the person violating said
section four or section five carries out any duties of, or
performs any work for, the racing commission, which
constitute the basis of the charge or complaint.

(c) Any person violating any provision of subsection
(b), section two of this article shall be guilty of a mis-
demeanor, and, upon conviction, shall be punished by a
fine or not less than one hundred dollars nor more than
five hundred dollars, or by imprisonment in jail for not
less than one month nor more than two months, or by
both such fine and imprisonment, in the discretion of the
court. The venue of any such offense shall be in the
county, or any one of the counties, wherein the person
violating said subsection (b) carries out any duties of, or
performs any work for, the racing commission, which
constitute the basis of the charge or complaint.

(d) False swearing before the racing commission on the
part of any witness shall be deemed perjury and shall be
punished as such.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

J. Rollins  
Clerk of the Senate

Clerk of the House of Delegates

W. T. Brittain J.  
President of the Senate

Speaker House of Delegates

The within approved this the 30th day of November, 1975

Atha. Shank  
Governor
PRESENTED TO THE
GOVERNOR
Date 11/5/75
Time 2:45 p.m.