WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

ENROLLED

SENATE BILL NO. 434

(By Mr. [Signature]

PASSED April 9, 1977

In Effect July 1, 1977
ENROLLED

Senate Bill No. 434
(By Mr. Steptoe and Mr. Sharpe)

[Passed April 9, 1977; in effect July 1, 1977.]

AN ACT to amend and reenact sections nine and ten, 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 and to the authorization of the pari-mutuel system of wagering; to commissions deducted by licensee from pari-mutuel pools; to the retention of breakage from pari-mutuel pools; to the auditing of records of horse and dog racetracks; to wagering by minors; and to daily license tax and pari-mutuel pools tax of racetracks.

Be it enacted by the Legislature of West Virginia:

That sections nine and ten, 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 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.

1 (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 provi-
sions 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 provided for in this article at any horse or dog race meeting within this state where horse or dog racing shall be permitted for any purse by any licensee. A licensee shall permit or conduct only the pari-mutuel system of wagering within the confines of such licensee's racetrack at which any horse or dog race meeting is conducted or held.

(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, except from thoroughbred horse racing pari-mutuel pools involving what is known as multiple betting in which the winning pari-mutuel ticket or tickets are determined by a combination of three or more winning horses, shall not exceed seventeen and one-fourth percent of the total of such pari-mutuel pools for the day. Out of such commission, as is mentioned in this paragraph, the licensee shall pay the pari-mutuel pools tax provided for in subsection (b), section ten of this article, shall make a deposit into a special fund to be established by the licensee and to be used for the payment of regular purses offered for thoroughbred racing by the licensee, which deposits out of pari-mutuel pools for each day during the months of January, February, November and December shall be six and seventy-five one hundredths percent of such pari-mutuel pools, and which, out of pari-mutuel pools for each day during all other months, shall be five and seventy-five one hundredths percent of such pari-mutuel pools, 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.

The commission deducted by any licensee from the pari-mutuel pools on thoroughbred horse racing involving what is known as multiple betting in which the winning pari-mutuel ticket or tickets are determined by a com-
bination of three or more winning horses, shall not exceed twenty-five percent of the total of such pari-mutuel pools for the day. Out of such commission, as is mentioned in this paragraph, the licensee (i) shall pay the pari-mutuel pools tax provided for in subsection (b), section ten of this article, (ii) shall make a deposit into a special fund to be established by the licensee and to be used for the payment of regular purses offered for thoroughbred racing by the licensee, which deposits out of pari-mutuel pools for each day during the months of January, February, November and December shall be ten and seventy-five one hundredths percent of such pari-mutuel pools, and which, out of pari-mutuel pools for each day during all other months, shall be nine and seventy-five one hundredths percent of such pari-mutuel pools, and (iii) 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 and one-fourth 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 em-
ployed by the racing commission who shall also be certi-
fied 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 cal-
culated at any horse or dog race meeting for the purpose
of ascertaining whether or not the licensee is deduct-
ing 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 per-
taining 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 pro-
visions 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 con-
ducting 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 com-
mission 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 a tax cal-
culated on the total daily contribution of 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, which tax, on the pari-
mutuel pools conducted or made each day during the
months of January, February, November and December
shall be calculated at five and twenty-five one hun-
dredths percent of such pools, and, on the pari-mutuel
pools conducted or made each day during all other
months, shall be calculated at five and seventy-five one
hundredths percent of such pools: 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 pari-mutuel pool tax,
calculated as hereinbefore in this subsection provided, 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 ex-
ceeding 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 com-
mission 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.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

James P. Davis
Chairman Senate Committee

Clarence E. Cheatham Jr.
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1977.

J. Chilton, Jr.
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

President of the Senate

Donald L. B corro
Speaker House of Delegates

The within is approved this the 26

day of April, 1977.

John.C. Rutledge
Governor
APPROVED AND SIGNED BY THE GOVERNOR

Date: April 26, 1977
Time: 3:20 p.m.