

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977



ENROLLED

SENATE BILL NO. 434

(By Mr. Stephens & M. Sharpe)



PASSED April 9 1977

In Effect July 1, 1977 ~~Passage~~

100: 727

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 re-
- 2 sults of any horse or dog race at any horse or dog race
- 3 meeting conducted or held by any licensee is hereby
- 4 authorized, if and only if such pari-mutuel wagering is
- 5 conducted by such licensee within the confines of such
- 6 licensee's horse racetrack or dog racetrack, and the provi-

7 sions of section one, article ten, chapter sixty-one of this
8 code, relating to gaming, shall not apply to the pari-mutuel
9 system of wagering in manner and form as provided for
10 in this article at any horse or dog race meeting within
11 this state where horse or dog racing shall be permitted
12 for any purse by any licensee. A licensee shall permit
13 or conduct only the pari-mutuel system of wagering
14 within the confines of such licensee's racetrack at which
15 any horse or dog race meeting is conducted or held.

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

18 (1) The commission deducted by any licensee from the
19 pari-mutuel pools on thoroughbred horse racing, except
20 from thoroughbred horse racing pari-mutuel pools in-
21 volving what is known as multiple betting in which the
22 winning pari-mutuel ticket or tickets are determined by
23 a combination of three or more winning horses, shall not
24 exceed seventeen and one-fourth percent of the total of
25 such pari-mutuel pools for the day. Out of such com-
26 mission, as is mentioned in this paragraph, the licensee
27 shall pay the pari-mutuel pools tax provided for in sub-
28 section (b), section ten of this article, shall make a
29 deposit into a special fund to be established by the
30 licensee and to be used for the payment of regular purses
31 offered for thoroughbred racing by the licensee, which
32 deposits out of pari-mutuel pools for each day during
33 the months of January, February, November and
34 December shall be six and seventy-five one hundredths
35 percent of such pari-mutuel pools, and which, out of
36 pari-mutuel pools for each day during all other months,
37 shall be five and seventy-five one hundredths percent
38 of such pari-mutuel pools, and shall pay one tenth of
39 one percent of such pari-mutuel pools into the general
40 fund of the county commission of the county in which
41 the racetrack is located, except if within a municipality,
42 then to such municipal general fund. The remainder of
43 the commission shall be retained by the licensee.

44 The commission deducted by any licensee from the pari-
45 mutuel pools on thoroughbred horse racing involving
46 what is known as multiple betting in which the winning
47 pari-mutuel ticket or tickets are determined by a com-

48 bination of three or more winning horses, shall not ex-
49 ceed twenty-five percent of the total of such pari-mutuel
50 pools for the day. Out of such commission, as is mentioned
51 in this paragraph, the licensee (i) shall pay the pari-
52 mutuel pools tax provided for in subsection (b), section
53 ten of this article, (ii) shall make a deposit into a special
54 fund to be established by the licensee and to be used for
55 the payment of regular purses offered for thoroughbred
56 racing by the licensee, which deposits out of pari-mutuel
57 pools for each day during the months of January,
58 February, November and December shall be ten and
59 seventy-five one hundredths percent of such pari-
60 mutuel pools, and which, out of pari-mutuel pools for
61 each day during all other months, shall be nine and
62 seventy-five one hundredths percent of such pari-mutuel
63 pools, and (iii) shall pay one tenth of one percent of such
64 pari-mutuel pools into the general fund of the county
65 commission of the county in which the racetrack is located,
66 except if within a municipality, then to such municipal
67 general fund. The remainder of the commission shall be
68 retained by the licensee.

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

80 (3) The commission deducted by any licensee from the
81 pari-mutuel pools on dog racing shall not exceed sixteen
82 and one-fourth percent of the total of such pari-mutuel
83 pools for the day. Out of such commission, the licensee
84 shall pay the pari-mutuel pools tax provided for in sub-
85 section (d), section ten of this article. The remain-
86 der of the commission shall be retained by the licensee.

87 (c) In addition to any such commission, a licensee of
88 horse race or dog race meetings shall also be entitled to

89 retain the legitimate breakage, which shall be made and
90 calculated to the dime.

91 (d) The director of audit, and any other auditors em-
92 ployed by the racing commission who shall also be certi-
93 fied public accountants or experienced public accountants,
94 shall have free access to the space or enclosure where the
95 pari-mutuel system of wagering is conducted or cal-
96 culated at any horse or dog race meeting for the purpose
97 of ascertaining whether or not the licensee is deduct-
98 ing and retaining only a commission as provided in this
99 section and is otherwise complying with the provisions of
100 this section. They shall also, for the same purposes only,
101 have full and free access to all records and papers per-
102 taining to such pari-mutuel system of wagering, and shall
103 report to the racing commission in writing, under oath,
104 whether or not the licensee has deducted and retained any
105 commission in excess of that permitted under the pro-
106 visions of this section or has otherwise failed to comply
107 with the provisions of this section.

108 (e) No licensee shall permit or allow any individual
109 under the age of eighteen years to wager at any horse or
110 dog racetrack, knowing or having reason to believe that
111 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.**

1 (a) Any racing association conducting thoroughbred
2 racing at any horse racetrack in this state shall pay each
3 day upon which horse races are run a daily license tax
4 of two hundred fifty dollars. Any racing association con-
5 ducting harness racing at any horse racetrack in this
6 state shall pay each day upon which horse races are run
7 a daily license tax of one hundred fifty dollars. Any
8 racing association conducting dog races shall pay each
9 day upon which dog races are run a daily license tax
10 of one hundred fifty dollars. In the event thoroughbred
11 racing, harness racing, dog racing, or any combination
12 of the foregoing are conducted on the same day at the
13 same racetrack by the same racing association, only one

14 daily license tax in the amount of two hundred fifty
15 dollars shall be paid for that day. Any such daily license
16 tax shall not apply to any local, county or state fair, horse
17 show or agricultural or livestock exposition at which
18 horse racing is conducted for not more than six days.

19 (b) Any racing association licensed by the racing com-
20 mission to conduct thoroughbred racing and permitting
21 and conducting pari-mutuel wagering under the provisions
22 of this article shall, in addition to the aforementioned
23 daily license tax, pay to the racing commission, from
24 the commission deducted each day by such licensee from
25 the pari-mutuel pools on thoroughbred racing a tax cal-
26 culated on the total daily contribution of all such pari-
27 mutuel pools conducted or made at any and every
28 thoroughbred race meeting of the licensee licensed under
29 the provisions of this article, which tax, on the pari-
30 mutuel pools conducted or made each day during the
31 months of January, February, November and December
32 shall be calculated at five and twenty-five one hun-
33 dredths percent of such pools, and, on the pari-mutuel
34 pools conducted or made each day during all other
35 months, shall be calculated at five and seventy-five one
36 hundredths percent of such pools: *Provided*, That any
37 such racing association operating a horse racetrack in this
38 state having an average daily pari-mutuel pool on horse
39 racing of one hundred fifty thousand dollars or less per
40 day for the race meetings of the preceding calendar year
41 shall, in lieu of payment of the pari-mutuel pool tax,
42 calculated as hereinbefore in this subsection provided, be
43 permitted to conduct pari-mutuel wagering at such horse
44 racetrack on the basis of a daily pari-mutuel pool tax
45 fixed as follows: On the daily pari-mutuel pool not ex-
46 ceeding one hundred fifty thousand dollars the daily pari-
47 mutuel pool tax shall be four thousand dollars plus five
48 and three-fourths percent of the daily pari-mutuel pool,
49 if any, in excess of one hundred fifty thousand dollars.

50 (c) Any racing association licensed by the racing com-
51 mission to conduct harness racing and permitting and
52 conducting pari-mutuel wagering under the provisions of
53 this article shall, in addition to the aforementioned daily

54 license tax, pay to the racing commission, from the com-
55 mission deducted each day by the licensee from the pari-
56 mutuel pools on harness racing, as a tax, three percent
57 of the first one hundred thousand dollars wagered, or
58 any part thereof; four percent of the next one hundred
59 fifty thousand dollars; and five and three-fourths percent
60 of all over that amount wagered each day in all such
61 pari-mutuel pools conducted or made at any and every
62 harness race meeting of the licensee licensed under the
63 provisions of this article.

64 (d) Any racing association licensed by the racing com-
65 mission to conduct dog racing and permitting and con-
66 ducting pari-mutuel wagering under the provisions of
67 this article shall, in addition to the aforementioned daily
68 license tax, pay to the racing commission, from the com-
69 mission deducted each day by such licensee from the
70 pari-mutuel pools on dog racing, as a tax, four percent
71 of the first fifty thousand dollars or any part thereof of
72 such pari-mutuel pools, five percent of the next fifty
73 thousand dollars of such pari-mutuel pools, six percent
74 of the next one hundred thousand dollars of such pari-
75 mutuel pools, seven percent of the next one hundred fifty
76 thousand dollars of such pari-mutuel pools, and eight
77 percent of all over three hundred fifty thousand dollars
78 wagered each day.

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

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

James L. Davis
Chairman Senate Committee

Clarence T. Chesterton
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1977.

J. Willson, Jr.
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

W. B. [Signature]
President of the Senate

Donald L. Kopp
Speaker House of Delegates

The within is approved this the 26
day of April, 1977.

John D. Rhyne
Governor



RECEIVED

APPROVED AND SIGNED BY THE GOVERNOR

APR 18 4 04 PM '77
OFFICE OF THE GOVERNOR

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

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OFFICE
LEGY. OF STATE