WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1979

ENROLLED
Committee Substitute for
HOUSE BILL No. 795

(By Mr. Martin, 35th District, and Mr. Moler)

Passed ___________ February 23, 1979
In Effect __________________ Passage

No. 795
AN ACT to amend article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eight-a, relating to the conducting of local option elections in counties having horse or dog racetracks into the question of permitting the holding of racing meets on Sundays; the procedures with respect to such elections; the form of the ballot or ballot labels with respect thereto; and the effect of the results of such election.

Be it enacted by the Legislature of West Virginia:

That article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eight-a, to read as follows:

ARTICLE 23. HORSE AND DOG RACING.

PART V-A. LOCAL OPTION ELECTION CONCERNING SUNDAY RACING.

§19-23-8a. Local option election procedure; form of ballot or ballot labels; effect of such election.

1 (a) The county commission of any county in which a horse
or dog race meeting is licensed under the provisions of section one of this article 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 whether the racing commission, notwithstanding any other provision of law, shall approve an application for a license which contains racing dates which fall on Sunday, if the application and the applicant are otherwise in compliance with the provisions of this article. Such approval shall limit Sunday racing to the hours between one p.m. and six p.m., local time.

(b) The county commission may, and upon the written petition of qualified voters residing within the county equal to at least fifteen percent of the number of persons who voted in that county in the next preceding general election, which petition may be in any number of counterparts, shall order an election to determine whether it is the will of the voters of said county that racing be permitted on Sundays in said county.

(c) No election to determine whether it is the will of the voters of said county that racing be permitted on Sundays in said county shall be held at a general or primary election or within sixty days of any such election or in conjunction with any other election.

(d) The county commission shall give notice of such election by publication of such notice as a Class I-O legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code. Such notice shall be published within twenty-one consecutive days next preceding the date of said election.

(e) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following: “Shall the West Virginia Racing Commission be authorized to approve horse racing on Sundays between the hours of one p.m. and six p.m. in _____________ County, West Virginia? ☐ Yes ☐ No (Place a cross mark in the square opposite your choice.)”
In a county in which dog racing is conducted, the term "dog racing" shall be substituted for "horse racing" on the ballot or ballot label.

(f) Each individual qualified to vote in said county shall be qualified to vote at the local option election. The votes in said local option election shall be counted and returns made by the election officers and the results certified by the commissioners of election to said county commission, which shall canvass the ballots, all in accordance with the laws of this state relating to general elections insofar as the same are applicable. The county commission shall, without delay, canvass the votes cast at such local option election and certify the results thereof to the racing commission, and shall transmit a certified copy of said results to the secretary of state.

(g) The racing commission shall, after the certification of the results of such local option election, thereafter approve an application for a license which contains racing dates which fall on Sunday if a majority of the voters voting at such local option election vote yes, and on such racing dates all racing and other activities authorized by this article shall be lawful, any other provision of this code to the contrary notwithstanding.

(h) After an election to determine whether it is the will of the voters of said county that racing be permitted on Sundays in said county, another election on such issue shall not be held for a period of five years.

(i) If at such election a majority of the voters of said county shall approve racing on Sundays in said county, it shall be lawful for the county commission, after five years from such approval, and it shall be the duty of the county commission upon a petition in writing of qualified voters residing within the county equal to at least fifteen percent of the number of persons who voted in that county in the next preceding general election, which petition may be in any number of counterparts, to order an election to determine whether it is the will of the voters of said county that racing on Sundays be discontinued in said county. The provisions of subsections (c) and (d) and (f) of this section shall govern said election. The ballot, or the
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ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall racing of horses on Sunday in County, West Virginia, be discontinued?

☐ Yes  ☐ No

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

In a county in which dog racing is conducted, the word "dogs" shall be substituted for "horses" on the ballot or ballot label. If it be the will of a majority of the voters of said county that Sunday racing be discontinued in said county, it shall be the duty of the racing commission thereafter, for a period of at least five years and until a subsequent election shall otherwise direct, to deny applications to race on Sundays in said county.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence E. Farmer
Chairman House Committee

Originated in the House.

Takes effect from passage.

J. Chilton Jr.
Clerk of the Senate

C. W. Blankenship
Clerk of the House of Delegates

W. T. Bolling Jr.
President of the Senate

C. A. Perry Jr.
Speaker House of Delegates

The within is approved this the 2

day of March, 1979.

Joseph P. Byrnes
Governor