WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1981

ENROLLED SENATE BILL NO. 16

(BY MR. McCune, Mr. others)

PASSED May 13, 1981
In Effect ninety days from Passage
ENROLLED

Senate Bill No. 16

(By MR. McCUNE, MR. STEPTOE, MR. STAGGERS and MR. DOBER)

[Passed May 13, 1981; in effect ninety days from passage.]

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 racing generally; the commissions deducted by licensees from pari-mutuel pools; the daily license tax and pari-mutuel pools tax of racetracks; and requiring certain certified financial statements from associations or licensees to be submitted to the racing commission and the Legislature annually.

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 provisions 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 two 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, March, October, November and December shall be seven and seventy-five one-thousandths percent of such pari-mutuel pools, and which, out of pari-mutuel pools for each day during all other months, shall be six and five hundred seventy-five one-thousandths 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 combination of two winning horses shall not exceed nineteen percent and by a combination 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, March, October, November and December for pools involving a combination of two winning horses shall be seven and ninety-five one-hundredths percent and out of pari-mutuel pools for each day during all other months shall be seven and forty-five one-hundredths percent of such pari-mutuel pools involving a combination of three or more winning horses for the months of January, February, March, October, November and December the deposits out of such fund shall be ten and ninety-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 ten and forty-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.

The commission deducted by the licensee under paragraph (b) (1) of this section may be reduced only by mutual agreement between the licensee and a majority of the trainers and horse owners licensed by section two (a) of this article or their designated representative. Such reduction in licensee commissions may be for a particular race, racing day or days or for a horse race meeting. Fifty percent of such reduction shall be retained by licensee from the amounts required to be paid into the special fund established by the licensee under the provisions of subsection (b) (1) of this section. The racing commission shall promulgate such reasonable rules and regulations as are necessary to implement the foregoing provisions.

(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, and from such breakage, the licensee of a horse race meeting (excluding dog race meetings), shall deposit daily fifty percent of the total of such breakage retained by the licensee into the special fund created pursuant to the provisions of subsection (b), subparagraph (1) of this section, for the payment of regular purses.

(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.

(f) Notwithstanding any other provisions of this section to the contrary, the provisions of this section in effect on the first day of July, one thousand nine hundred eighty, shall continue in effect until and through the thirtieth day of September, one thousand nine hundred eighty-one.

PART VII. TAXATION OF HORSE 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 a tax calculated 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, March, October, November and December shall be calculated
at three percent of such pools, and, on the pari-mutuel pools conducted or made each day during all other months, shall be calculated at four 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 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.

(f) Notwithstanding any other provisions of this section to the contrary, the provisions of this section in effect on the first day of July, one thousand nine hundred eighty, shall continue in effect until and through the thirtieth day of September, one thousand nine hundred eighty-one.

Every association or licensee subject to the provisions of this article, including the changed provisions of sections nine and ten hereof, shall annually submit to the racing commission and the Legislature financial statements, including a balance sheet, income statement and statement of change in financial position, prepared in accordance with generally accepted auditing standards, as certified by an experienced public accountant or a certified public accountant.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within is approved this the 20th day of May, 1981.

[Signature]
Governor