

APPROVED AND SIGNED BY THE GOVERNOR

Date 5-20-81

[Signature]

70: 16

WEST VIRGINIA LEGISLATURE



FIRST EXTRAORDINARY SESSION, 1981



ENROLLED

SENATE BILL NO. 16

(By Mr. McCune, Mr. Foker, et al)



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

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

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

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

43 The commission deducted by any licensee from the
44 pari-mutuel pools on thoroughbred horse racing involving
45 what is known as multiple betting in which the winning
46 pari-mutuel ticket or tickets are determined by a combination
47 of two winning horses shall not exceed nineteen percent and
48 by a combination of three or more winning horses, shall not
49 exceed twenty-five percent of the total of such pari-mutuel

50 pools for the day. Out of such commission, as is mentioned in
51 this paragraph, the licensee (i) shall pay the pari-mutuel pools
52 tax provided for in subsection (b), section ten of this article,
53 (ii) shall make a deposit into a special fund to be established
54 by the licensee and to be used for the payment of regular
55 purses offered for thoroughbred racing by the licensee, which
56 deposits out of pari-mutuel pools for each day during the
57 months of January, February, March, October, November
58 and December for pools involving a combination of two
59 winning horses shall be seven and ninety-five
60 one-hundredths percent and out of pari-mutuel pools for each
61 day during all other months shall be seven and forty-five
62 one-hundredths percent of such pari-mutuel pools involving
63 a combination of three or more winning horses for the
64 months of January, February, March, October, November
65 and December the deposits out of such fund shall be ten and
66 ninety-five one-hundredths percent of such pari-mutuel
67 pools, and which, out of pari-mutuel pools for each day
68 during all other months, shall be ten and forty-five
69 one-hundredths percent of such pari-mutuel pools, and (iii)
70 shall pay one tenth of one percent of such pari-mutuel pools
71 into the general fund of the county commission of the county
72 in which the racetrack is located, except if within a
73 municipality, then to such municipal general fund. The
74 remainder of the commission shall be retained by the
75 licensee.

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

89 (2) The commission deducted by any licensee from the
90 pari-mutuel pools on harness racing shall not exceed
91 seventeen and one-half percent of the total of such

92 pari-mutuel pools for the day. Out of such commission, the
93 licensee shall pay the pari-mutuel pools tax provided for in
94 subsection (c), section ten of this article, and shall pay one
95 tenth of one percent into the general fund of the county
96 commission of the county in which the racetrack is located,
97 except if within a municipality, then to such municipal
98 general fund. The remainder of the commission shall be
99 retained by the licensee.

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

107 (c) In addition to any such commission, a licensee of horse
108 race or dog race meetings shall also be entitled to retain the
109 legitimate breakage, which shall be made and calculated to
110 the dime, and from such breakage, the licensee of a horse race
111 meeting (excluding dog race meetings), shall deposit daily
112 fifty percent of the total of such breakage retained by the
113 licensee into the special fund created pursuant to the
114 provisions of subsection (b), subparagraph (1) of this section,
115 for the payment of regular purses.

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

132 (e) No licensee shall permit or allow any individual under
133 the age of eighteen years to wager at any horse or dog

134 racetrack, knowing or having reason to believe that such
135 individual is under the age of eighteen years.

136 (f) Notwithstanding any other provisions of this section to
137 the contrary, the provisions of this section in effect on the
138 first day of July, one thousand nine hundred eighty, shall
139 continue in effect until and through the thirtieth day of
140 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.

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

18 (b) Any racing association licensed by the racing
19 commission to conduct thoroughbred racing and permitting
20 and conducting pari-mutuel wagering under the provisions of
21 this article shall, in addition to the aforementioned daily
22 license tax, pay to the racing commission, from the
23 commission deducted each day by such licensee from the
24 pari-mutuel pools on thoroughbred racing a tax calculated on
25 the total daily contribution of all such pari-mutuel pools
26 conducted or made at any and every thoroughbred race
27 meeting of the licensee licensed under the provisions of this
28 article, which tax, on the pari-mutuel pools conducted or
29 made each day during the months of January, February,
30 March, October, November and December shall be calculated

31 at three percent of such pools, and, on the pari-mutuel pools
32 conducted or made each day during all other months, shall be
33 calculated at four percent of such pools: *Provided*, That any
34 such racing association operating a horse racetrack in this
35 state having an average daily pari-mutuel pool on horse
36 racing of one hundred fifty thousand dollars or less per day
37 for the race meetings of the preceding calendar year shall, in
38 lieu of payment of the pari-mutuel pool tax, calculated as
39 hereinbefore in this subsection provided, be permitted to
40 conduct pari-mutuel wagering at such horse racetrack on the
41 basis of a daily pari-mutuel pool tax fixed as follows: On the
42 daily pari-mutuel pool not exceeding one hundred fifty
43 thousand dollars the daily pari-mutuel pool tax shall be four
44 thousand dollars plus five and three-fourths percent of the
45 daily pari-mutuel pool, if any, in excess of one hundred fifty
46 thousand dollars.

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

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

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

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

85 Every association or licensee subject to the provisions of
86 this article, including the changed provisions of sections nine
87 and ten hereof, shall annually submit to the racing
88 commission and the Legislature financial statements,
89 including a balance sheet, income statement and statement of
90 change in financial position, prepared in accordance with
91 generally accepted auditing standards, as certified by an
92 experienced public accountant or a certified public
93 accountant.

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

R. P. Bayler
Chairman Senate Committee

Tommy E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Todd C. Willis
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Warren R. McGraw
President of the Senate

Charles H. See, Jr.
Speaker House of Delegates

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

John D. Rowland
Governor

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SECY. OF STATE