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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984

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ENROLLED

Committee Substitute for

SENATE BILL NO. 431

(By Mr. *Cheney & Mr. McGraw*
Mr. President)

—•—

PASSED *March 14,* 1984

In Effect *from* Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 431

(MR. CHERNENKO AND MR. MCGRAW, MR. PRESIDENT, *original sponsors*)

[Passed March 14, 1984; in effect from passage.]

AN ACT to amend and reenact sections three, six, seven, eight, nine, ten and thirteen, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article twenty-three by adding thereto three new sections, designated sections eight-b, eight-c and thirteen-b, relating to horse and dog racing generally; providing additional definitions; increasing the authority of the racing commission; authority to impose penalties; providing minimum number of racing days; allowing Sunday racing; providing for local option elections; granting authority to racing associations to withhold certain commission; changing and reducing the pari-mutuel tax; providing for disposition of funds for payment of outstanding and unredeemed pari-mutuel tickets; and granting authority for racing commission to establish West Virginia thoroughbred development fund and to provide awards, purse supplements and moneys for capital improvements therefrom.

Be it enacted by the Legislature of West Virginia:

That sections three, six, seven, eight, nine, ten and thirteen, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto three new sections, designated sections eight-b, eight-c and thirteen-b, all to read as follows:

ARTICLE 23. HORSE AND DOG RACING.

**PART II. DEFINITIONS; WEST VIRGINIA RACING COMMISSION —
ORGANIZATION AND OPERATION.**

§19-23-3. Definitions.

- 1 Unless the context in which used clearly requires a
- 2 different meaning, as used in this article:
- 3 (1) "Horse racing" means any type of horse racing,
- 4 including, but not limited to, thoroughbred racing and
- 5 harness racing;
- 6 (2) "Thoroughbred racing" means flat or running type
- 7 horse racing in which each horse participating therein is a
- 8 thoroughbred and is mounted by a jockey;
- 9 (3) "Harness racing" means horse racing in which the
- 10 horses participating therein are harnessed to a sulky,
- 11 carriage or other vehicle, and shall not include any form of
- 12 horse racing in which the horses are mounted by jockeys;
- 13 (4) "Horse race meeting" means the whole period of
- 14 time for which a license is required by the provisions of
- 15 section one of this article;
- 16 (5) "Dog racing" means any type of dog racing,
- 17 including, but not limited to, greyhound racing;
- 18 (6) "Purse" means any purse, stake or award for which a
- 19 horse or dog race is run;
- 20 (7) "Racing association" or "person" means any
- 21 individual, partnership, firm, association, corporation or
- 22 other entity or organization of whatever character or
- 23 description;
- 24 (8) "Applicant" means any racing association making
- 25 application for a license under the provisions of this article,
- 26 or any person making application for a permit under the
- 27 provisions of this article, or any person making application
- 28 for a construction permit under the provisions of this
- 29 article, as the case may be;

- 30 (9) "License" means the license required by the
31 provisions of section one of this article;
- 32 (10) "Permit" means the permit required by the
33 provisions of section two of this article;
- 34 (11) "Construction permit" means the construction
35 permit required by the provisions of section eighteen of this
36 article;
- 37 (12) "Licensee" means any racing association holding a
38 license required by the provisions of section one of this
39 article and issued under the provisions of this article;
- 40 (13) "Permit holder" means any person holding a permit
41 required by the provisions of section two of this article and
42 issued under the provisions of this article;
- 43 (14) "Construction permit holder" means any person
44 holding a construction permit required by the provisions of
45 section eighteen of this article and issued under the
46 provisions of this article;
- 47 (15) "Hold or conduct" includes "assist, aid or abet in
48 holding or conducting";
- 49 (16) "Racing commission" means the West Virginia
50 racing commission;
- 51 (17) "Stewards" means the steward or stewards
52 representing the racing commission, the steward or
53 stewards representing a licensee and any other steward or
54 stewards, whose duty it shall be to supervise any horse or
55 dog race meeting, all as may be provided by reasonable
56 rules and regulations of the racing commission, and such
57 reasonable rules and regulations shall specify the number
58 of stewards to be appointed, the method and manner of
59 their appointment and their powers, authority and duties;
- 60 (18) "Pari-mutuel" means a mutuel or collective pool
61 that can be divided among those who have contributed their
62 wagers to one central agency, the odds to be reckoned in
63 accordance to the collective amounts wagered upon each
64 contestant running in a horse or dog race upon which the
65 pool is made, but the total to be divided among the first
66 three contestants on the basis of the number of wagers on
67 these;
- 68 (19) "Pool" means a combination of interests in a joint
69 wagering enterprise, or a stake in such enterprise;
- 70 (20) "Legitimate breakage" is the percentage left over
71 in the division of a pool;

72 (21) "To the dime" means that wagers shall be figured
73 and paid to the dime;

74 (22) "Code" means the code of West Virginia, one
75 thousand nine hundred thirty-one, as heretofore and
76 hereinafter amended;

77 (23) "Accredited thoroughbred horse" means a
78 thoroughbred horse that is either: (a) Foaled in West
79 Virginia; or (b) sired by an accredited West Virginia sire; or
80 (c) as a yearling, finished twelve consecutive months of
81 verifiable residence in the state, except for thirty days grace
82 for the horse to be shipped to and from horse sales where
83 said horse is officially entered in the sales catalogue of a
84 recognized thoroughbred sales company. No thoroughbred
85 horse shall qualify under part (c) of this section after the
86 first day of July, one thousand nine hundred ninety.

87 (24) "Accredited West Virginia sire" is a sire that is
88 permanently domiciled in West Virginia, stands a full
89 season in West Virginia and is registered with the West
90 Virginia thoroughbred breeders association;

91 (25) "Breeder of an accredited West Virginia horse" is
92 the owner of the foal at the time it was born in West
93 Virginia;

94 (26) "Raiser of an accredited West Virginia horse" is the
95 owner of the yearling at the time it finished twelve
96 consecutive months of verifiable residence in the state.
97 During the period, the raiser will be granted one month of
98 grace for his horse to be shipped to and from thoroughbred
99 sales where the horse is officially entered in the sales
100 catalogue of a recognized thoroughbred sales company.
101 Prior to the horse being shipped out of the state for sales, the
102 raiser must notify the racing commission of his intentions;

103 (27) The "owner of an accredited West Virginia sire" is
104 the owner of record at the time the offspring is conceived;

105 (28) The "owner of an accredited West Virginia horse"
106 means the owner at the time said horse earned designated
107 purses to qualify for restricted purse supplements provided
108 for in section thirteen-b of this article; and

109 (29) "Fund" means the West Virginia thoroughbred
110 development fund established in section thirteen-b of this
111 article.

PART IV. POWERS AND AUTHORITY OF RACING COMMISSION.

§19-23-6. Powers and authority of racing commission.

1 The racing commission shall have full jurisdiction over
2 and shall supervise all horse race meetings, all dog race
3 meetings and all persons involved in the holding or
4 conducting of horse or dog race meetings, and, in this
5 regard, it shall have plenary power and authority:

6 (1) To investigate applicants and determine the
7 eligibility of such applicants for a license or permit or
8 construction permit under the provisions of this article;

9 (2) To fix, from time to time, the annual fee to be paid to
10 the racing commission for any permit required under the
11 provisions of section two of this article;

12 (3) To promulgate reasonable rules and regulations
13 implementing and making effective the provisions of this
14 article and the powers and authority conferred and the
15 duties imposed upon the racing commission under the
16 provisions of this article, including, but not limited to,
17 reasonable rules and regulations under which all horse
18 races, dog races, horse race meetings and dog race meetings
19 shall be held and conducted, all of which reasonable rules
20 and regulations shall be promulgated in accordance with
21 the provisions of article three, chapter twenty-nine-a of this
22 code;

23 (4) To register colors and assumed names and to fix,
24 from time to time, the annual fee to be paid to the racing
25 commission for any such registration;

26 (5) To fix and regulate the minimum purse to be offered
27 during any horse or dog race meeting;

28 (6) To fix a minimum and a maximum number of horse
29 races or dog races to be held on any respective racing day;

30 (7) To enter the office, horse racetrack, dog racetrack,
31 kennel, facilities and other places of business of any
32 licensee to determine whether the provisions of this article
33 and its reasonable rules and regulations are being complied
34 with, and for this purpose, the racing commission, its racing
35 secretary, representatives and employees may visit,
36 investigate and have free access to any such office, horse
37 racetrack, dog racetrack, kennel, facilities and other places
38 of business;

39 (8) To investigate alleged violations of the provisions of

40 this article, its reasonable rules and regulations, orders and
41 final decisions and to take appropriate disciplinary action
42 against any licensee or permit holder or construction permit
43 holder for the violation thereof or institute appropriate
44 legal action for the enforcement thereof or take such
45 disciplinary action and institute such legal action;

46 (9) By reasonable rules and regulations, to authorize
47 stewards, starters and other racing officials to impose
48 reasonable fines or other sanctions upon any person
49 connected with or involved in any horse or dog racing or any
50 horse or dog race meeting; and to authorize stewards to rule
51 off the grounds of any horse or dog racetrack any tout,
52 bookmaker or other undersirable individual deemed
53 inimicable to the best interests of horse and dog racing or
54 the pari-mutuel system of wagering in connection
55 therewith;

56 (10) To require at any time the removal of any racing
57 official or racing employee of any licensee, for the violation
58 of any provision of this article, any reasonable rule and
59 regulation of the racing commission or for any fraudulent
60 practice;

61 (11) To acquire, establish, maintain and operate, or to
62 provide by contract for the maintenance and operation of, a
63 testing laboratory and related facilities, for the purpose of
64 conducting saliva, urine and other tests on the horse or dog
65 or horses or dogs run or to be run in any horse or dog race
66 meeting, and to purchase all equipment and supplies
67 deemed necessary or desirable in connection with the
68 acquisition, establishment, maintenance and operation of
69 any such testing laboratory and related facilities and all
70 such tests;

71 (12) To hold up, in any disputed horse or dog race, the
72 payment of any purse, pending a final determination of the
73 results thereof;

74 (13) To require each licensee to file an annual balance
75 sheet and profit and loss statement pertaining to such
76 licensee's horse or dog racing activities in this state,
77 together with a list of each such licensee's stockholders or
78 other persons having any beneficial interest in the horse or
79 dog racing activities of such licensee;

80 (14) To issue subpoenas for the attendance of witnesses
81 and subpoenas duces tecum for the production of any

82 books, records and other pertinent documents, and to
83 administer oaths and affirmations to such witnesses,
84 whenever, in the judgment of the racing commission, it is
85 necessary to do so for the effective discharge of its duties
86 under the provisions of this article;

87 (15) To keep accurate and complete records of its
88 proceedings and to certify the same as may be appropriate;

89 (16) To take such other action as may be reasonable or
90 appropriate to effectuate the provisions of this article and
91 its reasonable rules and regulations;

92 (17) To provide breeders' awards, purse supplements
93 and moneys for capital improvements at racetracks in
94 compliance with section thirteen-b of this article.

95 The racing commission shall not interfere in the internal
96 business or internal affairs of any licensee.

PART V. LICENSE AND PERMIT PROCEDURES.

§19-23-7. Application for license; forms; time for filing; disclosure required; verification; bond; application for permit.

1 (a) Any racing association desiring to hold or conduct a
2 horse or dog race meeting, where the pari-mutuel system of
3 wagering is permitted and conducted, during any calendar
4 year, shall file with the racing commission an application
5 for a license to hold or conduct such horse or dog race
6 meeting. A separate application shall be filed for each
7 separate license sought for each horse or dog race meeting
8 which such applicant proposes to hold or conduct. The
9 racing commission shall prescribe blank forms to be used in
10 making such application. Such application shall be filed on
11 or before a day to be fixed by the racing commission and
12 shall disclose, but not be limited to, the following:

13 (1) If the applicant be an individual, the full name and
14 address of the applicant;

15 (2) If the applicant be a partnership, firm or association,
16 the full name and address of each partner or member
17 thereof, the name of the partnership, firm or association
18 and its post office address;

19 (3) If the applicant be a corporation, its name, the state
20 of its incorporation, its post office address, the full name
21 and address of each officer and director thereof, and if a

22 foreign corporation, whether it is qualified to do business in
23 this state;

24 (4) The dates, totaling not less than two hundred, such
25 applicant intends to hold or conduct such horse or dog race
26 meeting (which may be on any day including Sundays);

27 (5) The location of the horse or dog racetrack, place or
28 enclosure where such applicant proposes to hold or conduct
29 such horse or dog race meeting;

30 (6) Whether the applicant, any partner, member, officer
31 or director has previously applied for a license under the
32 provisions of this article or for a similar license in this or
33 any other state, and if so, whether such license was issued or
34 refused, and, if issued, whether it was ever suspended or
35 revoked; and

36 (7) Such other information as the racing commission
37 may reasonably require which may include information
38 relating to any criminal record of the applicant, if an
39 individual, or of each partner or member, if a partnership,
40 firm or association, or of each officer and director, if a
41 corporation.

42 (b) Such application shall be verified by the oath or
43 affirmation of the applicant for such license, if an
44 individual, or if the applicant is a partnership, firm,
45 association or corporation, by a partner, member or officer
46 thereof, as the case may be. When required by the racing
47 commission, an applicant for a license shall also furnish
48 evidence satisfactory to the racing commission of such
49 applicant's ability to pay all taxes due the state, purses,
50 salaries of officials and other expenses incident to the horse
51 or dog race meeting for which a license is sought. In the
52 event the applicant is not able to furnish such satisfactory
53 evidence of such applicant's ability to pay such expenses
54 and fees, the racing commission may require bond or other
55 adequate security before the requested license is issued.

56 (c) Any person desiring to obtain a permit, as required
57 by the provisions of section two of this article, shall make
58 application therefor on a form prescribed by the racing
59 commission. The application for any such permit shall be
60 accompanied by the fee prescribed therefor by the racing
61 commission. Each applicant for a permit shall set forth in
62 the application such information as the racing commission
63 shall reasonably require.

§19-23-8. Consideration of application for license or permit; issuance or denial; contents of license or permit; grounds for denial of application; determination of racing dates; license or permit not transferable or assignable; limitation on license; validity of permit.

1 (a) The racing commission shall promptly consider any
2 application for a license or permit, as the case may be. Based
3 upon such application and all other information before it,
4 the racing commission shall make and enter an order either
5 approving or denying such application. The application
6 shall be denied for any reason specified in subsection (b) of
7 this section. If an application for a license is approved, the
8 racing commission shall issue a license to conduct a horse or
9 dog race meeting, and shall designate on the face of such
10 license the kind or type of horse or dog racing for which the
11 same is issued, the racing association to which the same is
12 issued, the dates upon which such horse or dog race meeting
13 is to be held or conducted (which may be any weekday, or
14 weeknight, including Sundays), the location of the horse or
15 dog racetrack, place or enclosure where such horse or dog
16 race meeting is to be held or conducted and such other
17 information as the racing commission shall deem proper. If
18 an application for a permit is approved, the racing
19 commission shall issue a permit and shall designate on the
20 face of such permit such information as the racing
21 commission shall deem proper.

22 (b) The racing commission shall deny the application
23 and refuse to issue the license or permit, as the case may be,
24 which denial and refusal shall be final and conclusive
25 unless a hearing is demanded in accordance with the
26 provisions of section sixteen of this article, if the racing
27 commission finds that the applicant (individually, if an
28 individual, or the partners or members, if a partnership,
29 firm or association, or the owners and directors, if a
30 corporation):

31 (1) Has knowingly made false statement of a material
32 fact in the application or has knowingly failed to disclose
33 any information called for in the application;

34 (2) Is or has been guilty of any corrupt or fraudulent act,
35 practice or conduct in connection with any horse or dog race
36 meeting in this or any other state;

37 (3) Has been convicted, within ten years prior to the
38 date of such application, of an offense which under the law
39 of this state, of any other state or of the United States of
40 America, shall constitute a felony or a crime involving
41 moral turpitude;

42 (4) Has failed to comply with the provisions of this
43 article or any reasonable rules and regulations of the racing
44 commission;

45 (5) Has had a license to hold or conduct a horse or dog
46 race meeting or a permit to participate therein denied for
47 just cause, suspended or revoked in any other state;

48 (6) Has defaulted in the payment of any obligation or
49 debt due to this state under the provisions of this article;

50 (7) Is, if a corporation, neither incorporated under the
51 laws of this state nor qualified to do business within this
52 state;

53 (8) In the case of an application for a license, has failed
54 to furnish bond or other adequate security, if the same is
55 required by the racing commission under the provisions of
56 section seven of this article;

57 (9) In the case of an application for a permit, is
58 unqualified to perform the duties required for the permit
59 sought; or

60 (10) In the case of an application for a permit, is, for just
61 cause, determined to be undesirable to perform the duties
62 required of such applicant.

63 (c) In issuing licenses and fixing dates for horse or dog
64 race meetings at the various horse racetracks and dog
65 racetracks in this state, the racing commission shall
66 consider the horse racing circuits and dog racing circuits
67 with which the horse racetracks and dog racetracks in this
68 state are associated or contiguous to, and shall also consider
69 dates which are calculated to increase the tax revenues
70 accruing from horse racing and dog racing.

71 (d) A license issued under the provisions of this article is
72 neither transferable nor assignable to any other racing
73 association and shall not permit the holding or conducting
74 of a horse or dog race meeting at any horse or dog racetrack,
75 place or enclosure not specified thereon. However, if the
76 specified horse or dog racetrack, place or enclosure
77 becomes unsuitable for the horse or dog race meeting
78 because of flood, fire or other catastrophe, or cannot be used

79 for any reason, the racing commission may, upon
80 application, authorize the horse or dog race meeting, or any
81 remaining portion thereof, to be conducted at any other
82 racetrack, place or enclosure available for that purpose,
83 provided that the owner of such racetrack, place or
84 enclosure willingly consents to the use thereof.

85 (e) No type of horse racing or dog racing shall be
86 conducted by a licensee at any race meeting other than that
87 type for which a license was issued.

88 (f) Each permit issued under the provisions of this
89 section shall be for the period ending December thirty-first
90 of the year for which it was issued, and shall be valid at all
91 horse or dog race meetings during the period for which it
92 was issued, unless it be sooner suspended or revoked in
93 accordance with the provisions of this article. A permit
94 issued under the provisions of this article is neither
95 transferable nor assignable to any other person.

**§19-23-8b. Horse or dog racing after six o'clock postmeridian
on Sundays; application therefor; tentative
approval; publication of notice; petition for
local option election; local option election
procedure; effect of such election.**

1 (a) Notwithstanding any other provisions of this code to
2 the contrary, a racing association licensed under the
3 provisions of section one of this article and operating a
4 horse or dog race track in a county in which Sunday racing
5 has been approved under provisions of section eight-a of
6 this article may make applications to the racing commission
7 for permission to conduct horse or dog racing after the hour
8 of six o'clock postmeridian on Sundays.

9 (b) The racing commission, if it finds such application to
10 be in order, may grant tentative approval of such
11 application and, if it grants tentative approval, shall
12 prepare and publish a notice to the public that the racing
13 commission has granted tentative approval of the
14 application and that the racing commission will make final
15 confirmation of such application at the expiration of sixty
16 days from the date of the first publication of such notice,
17 which date shall be specified in said notice, unless within
18 that time a petition for a local option election has been filed
19 in accordance with subsection (c) of this section with the

20 county commission of the county in which such race track is
21 located. Such notice shall be published as a Class II legal
22 advertisement in compliance with the provisions of article
23 three, chapter fifty-nine of this code, and the publication
24 area for such publication shall be the county in which the
25 race track is located: *Provided*, That prior to granting
26 tentative approval hereunder, the racing commission shall
27 solicit public comment from the citizens of the county
28 wherein the horse racing track or dog racing track is located
29 and shall take such comment into consideration in deciding
30 whether or not to grant tentative approval.

31 (c) The county commission upon the written petition of
32 qualified voters residing within the county equal to at least
33 fifteen percent of the number of persons who voted in that
34 county in the next preceding general election, which
35 petition may be in any number of counterparts, shall order
36 an election to determine whether it is the will of the voters
37 of said county that racing be permitted after the hour of six
38 o'clock postmeridian on Sundays in the county.

39 (d) No election to determine whether it is the will of the
40 voters of a county that racing be permitted after the hour of
41 six o'clock postmeridian on Sundays in the county may be
42 held at a general or primary election or within sixty days of
43 any such election or in conjunction with any other election.

44 (e) The ballot, or the ballot labels where voting
45 machines are used, shall have printed thereon substantially
46 the following:

47 "Shall the West Virginia Racing Commission be
48 authorized to approve horse racing on Sundays after the
49 hour of six p.m. in County,
50 West Virginia?

51 ☐ Yes ☐ No

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

53 In a county in which dog racing is conducted, the term
54 "dog racing" shall be substituted for "horse racing" on the
55 ballot or ballot label.

56 (f) Each individual qualified to vote in the county is
57 qualified to vote at the local option election. The votes in the
58 local option election shall be counted and returns made by
59 the election officers and the results certified by the
60 commissioners of election to the county commission, which
61 shall canvass the ballots, all in accordance with the laws of

62 this state relating to general elections insofar as the same
63 are applicable. The county commission shall, without delay,
64 canvass the votes cast at such local option election and
65 certify the results thereof to the racing commission and
66 shall transmit a certified copy of the results to the secretary
67 of state.

68 (g) The racing commission shall, after the certification
69 of the results of such local option election, thereafter
70 approve an application for a license which contains racing
71 dates which fall on Sunday for any hour or hours after six
72 o'clock postmeridian if a majority of the voters voting at
73 such local option election vote yes and on such racing dates
74 all racing and other activities authorized by this article are
75 lawful, any other provisions of this code to the contrary
76 notwithstanding.

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

1 (a) Notwithstanding any other provision of law to the
2 contrary, no license for dog racing may be issued for dog
3 racing in any county wherein horse racing has been
4 conducted at any time during the fifteen years preceding
5 the application for such license, unless first approved by the
6 voters of the county in which the proposed dog racing track
7 is to be located. The county commission of any county in
8 which horse racing has been conducted at any time during
9 such fifteen-year period and in which a proposed dog racing
10 track is to be located is hereby authorized to call a local
11 option election for the purpose of determining the will of
12 the qualified voters within said county as to whether the
13 racing commission may approve an application for a license
14 for dog racing if the application and the applicant are
15 otherwise in compliance with the provisions of this article
16 and this code.

17 (b) The county commission may order an election to
18 determine whether it is the will of the voters of said county
19 that dog racing be permitted in said county.

20 (c) Any election to determine whether it is the will of the
21 voters of said county that dog racing be permitted in said
22 county shall be held at a general or primary election.

23 (d) The county commission shall give notice of such
24 election by publication of such notice as a Class II-0 legal

25 advertisement in accordance with the provisions of article
26 three, chapter fifty-nine of this code. Such notice shall be
27 published within twenty-one consecutive days next
28 preceding the date of said election.

29 (e) The ballot, or the ballot labels where voting
30 machines are used, shall have printed thereon substantially
31 the following:

32 "Shall the West Virginia Racing Commission be
33 authorized to approve dog racing in County,
34 West Virginia?

35 ☐ Yes ☐ No

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

37 Each individual qualified to vote in said county shall be
38 qualified to vote at the local option election. The votes in
39 said local option election shall be counted and returns made
40 by the election officers and the results certified by the
41 commissioners of election to the county commission, which
42 shall canvass the ballots, all in accordance with the laws of
43 this state relating to general elections insofar as the same
44 are applicable. The county commission shall, without delay,
45 canvass the votes cast at such local option election and
46 certify the results thereof to the racing commission, and
47 shall transmit a certified copy of said results to the
48 secretary of state.

49 (f) The racing commission may, after the certification of
50 the results of such local option election, thereafter approve
51 an application for a license for dog racing if a majority of
52 the voters voting at such local option election vote yes.

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

57 (h) If at such election a majority of the voters of said
58 county shall approve dog racing in said county, it is lawful
59 for the county commission, after five years from such
60 approval, and it shall be the duty of the county commission
61 upon a petition in writing of qualified voters residing
62 within the county equal to at least fifteen percent of the
63 number of persons who voted in that county in the next
64 preceding general election, which petition may be in any
65 number of counterparts, to order an election to determine
66 whether it is the will of the voters of said county that dog

67 racing be discontinued in said county. The provisions of
68 subsections (c), (d) and (e) of this section shall govern said
69 election. The ballot, or the ballot labels where voting
70 machines are used, shall have printed thereon substantially
71 the following:

72 "Shall racing of dogs in County, West
73 Virginia be discontinued?

74 ☐ Yes ☐ No

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

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

16 (b) A licensee is hereby expressly authorized to deduct a
17 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
21 involving what is known as multiple betting in which the
22 winning pari-mutuel ticket or tickets are determined by a
23 combination of two or more winning horses, shall not
24 exceed seventeen and one-fourth percent of the total of such
25 pari-mutuel pools for the day. Out of such commission, as is
26 mentioned in this subdivision, the licensee (i) shall pay the
27 pari-mutuel pools tax provided for in subsection (b), section
28 ten of this article, (ii) shall make a deposit into a special

29 fund to be established by the licensee and to be used for the
30 payment of regular purses offered for thoroughbred racing
31 by the licensee, which deposits out of pari-mutuel pools for
32 each day during the months of January, February, March,
33 October, November and December shall be seven and
34 seventy-five one thousandths percent of such pari-mutuel
35 pools, and which, out of pari-mutuel pools for each day
36 during all other months, shall be six and five hundred
37 seventy-five one thousandths percent of such pari-mutuel
38 pools, (iii) shall, after allowance for the exclusion given by
39 subsection (b) of section ten of this article, make a deposit
40 into a special fund to be established by the racing
41 commission and to be used for the payment of breeders'
42 awards and capital improvements as authorized by section
43 thirteen-b of this article, which deposits out of pari-mutuel
44 pools shall from the effective date of this section and for
45 fiscal year one thousand nine hundred eighty-five be four-
46 tenths percent; for fiscal year one thousand nine hundred
47 eighty-six be seven-tenths percent; for fiscal year one
48 thousand nine hundred eighty-seven be one percent; for
49 fiscal year one thousand nine hundred eighty-eight be one
50 and one-half percent; and for fiscal year one thousand nine
51 hundred eighty-nine and each year thereafter, be two
52 percent of such pools, and (iv) shall pay one tenth of one
53 percent of such pari-mutuel pools into the general fund of
54 the county commission of the county in which the racetrack
55 is located, except if within a municipality, then to such
56 municipal general fund. The remainder of the commission
57 shall be retained by the licensee.

58 The commission deducted by any licensee from the pari-
59 mutuel pools on thoroughbred horse racing involving what
60 is known as multiple betting in which the winning pari-
61 mutuel ticket or tickets are determined by a combination of
62 two winning horses shall not exceed nineteen percent and
63 by a combination of three or more winning horses, shall not
64 exceed twenty-five percent of the total of such pari-mutuel
65 pools for the day. Out of such commission, as is mentioned
66 in this paragraph, the licensee (i) shall pay the pari-mutuel
67 pools tax provided for in subsection (b), section ten of this
68 article, (ii) shall make a deposit into a special fund to be
69 established by the licensee and to be used for the payment of
70 regular purses offered for thoroughbred racing by the

71 licensee, which deposits out of pari-mutuel pools for each
72 day during the months of January, February, March,
73 October, November and December for pools involving a
74 combination of two winning horses shall be seven and
75 ninety-five one hundredths percent and out of pari-mutuel
76 pools for each day during all other months shall be seven
77 and forty-five one hundredths percent of such pari-mutuel
78 pools; and involving a combination of three or more
79 winning horses for the months of January, February,
80 March, October, November and December the deposits out
81 of such fund shall be ten and ninety-five one hundredths
82 percent of such pari-mutuel pools; and which, out of pari-
83 mutuel pools for each day during all other months, shall be
84 ten and forty-five one hundredths percent of such pari-
85 mutuel pools, (iii) shall, after allowance for the exclusion
86 given by subsection (b) of section ten of this article, make a
87 deposit into a special fund to be established by the racing
88 commission and to be used for the payment of breeders'
89 awards and capital improvements as authorized by section
90 thirteen-b of this article, which deposits out of pari-mutuel
91 pools shall from the effective date of this section and for
92 fiscal year one thousand nine hundred eighty-five be four-
93 tenths percent; for fiscal year one thousand nine hundred
94 eighty-six be seven-tenths percent; and for fiscal year one
95 thousand nine hundred eighty-seven be one percent; for
96 fiscal year one thousand nine hundred eighty-eight be one
97 and one-half percent; and for fiscal year one thousand nine
98 hundred eighty-nine and each year thereafter be two
99 percent of such pools, and (iv) shall pay one tenth of one
100 percent of such pari-mutuel pools into the general fund of
101 the county commission of the county in which the racetrack
102 is located, except if within a municipality, then to such
103 municipal general fund. The remainder of the commission
104 shall be retained by the licensee.

105 The deposits into special fund established by the racing
106 commission to be used for payments of breeders' awards
107 and other expenses authorized by section thirteen-b of this
108 article shall be reduced by fifty percent in the event the
109 average daily pari-mutuel pool for any calendar year is less
110 than the average daily pari-mutuel pool for the calendar
111 year ended the thirty-first day of December, one thousand
112 nine hundred eighty-three in amount equal to eleven

113 percent of the average daily pari-mutuel pool for said
114 calendar year ended the thirty-first day of December, one
115 thousand nine hundred eighty-three. Of the amounts so
116 reduced, fifty percent shall be paid into the special purse
117 fund established in section nine-b of this article.

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

132 (2) The commission deducted by any licensee from the
133 pari-mutuel pools on harness racing shall not exceed
134 seventeen and one-half percent of the total of such pari-
135 mutuel pools for the day. Out of such commission the
136 licensee shall pay the pari-mutuel pools tax provided for in
137 subsection (c), section ten of this article, and shall pay one
138 tenth of one percent into the general fund of the county
139 commission of the county in which the racetrack is located,
140 except if within a municipality, then to such municipal
141 general fund. The remainder of the commission shall be
142 retained by the licensee.

143 (3) The commission deducted by any licensee from the
144 pari-mutuel pools on dog racing shall not exceed sixteen
145 and thirty-one-hundredths percent of the total of such
146 pari-mutuel pools for the day. Out of such commission, the
147 licensee shall pay the pari-mutuel pools tax provided for in
148 subsection (d), section ten of this article, and shall pay one
149 tenth of one percent of such pari-mutuel pools into the
150 general fund of the county commission of the county in
151 which the racetrack is located, except if within a
152 municipality, then to such municipal general fund. The
153 remainder of the commission shall be retained by the
154 licensee.

155 (c) In addition to any such commission, a licensee of
156 horse race or dog race meetings shall also be entitled to
157 retain the legitimate breakage, which shall be made and
158 calculated to the dime, and from such breakage, the licensee
159 of a horse race meeting (excluding dog race meetings), shall
160 deposit daily fifty percent of the total of such breakage
161 retained by the licensee into the special fund created
162 pursuant to the provisions of subdivision (1), subsection (b),
163 of this section for the payment of regular purses.

164 (d) The director of audit, and any other auditors
165 employed by the racing commission who shall also be
166 certified public accountants or experienced public
167 accountants, shall have free access to the space or enclosure
168 where the pari-mutuel system of wagering is conducted or
169 calculated at any horse or dog race meeting for the purpose
170 of ascertaining whether or not the licensee is deducting and
171 retaining only a commission as provided in this section and
172 is otherwise complying with the provisions of this section.
173 They shall also, for the same purposes only, have full and
174 free access to all records and papers pertaining to such
175 pari-mutuel system of wagering, and shall report to the
176 racing commission in writing, under oath, whether or not
177 the licensee has deducted and retained any commission in
178 excess of that permitted under the provisions of this section
179 or has otherwise failed to comply with the provisions of this
180 section.

181 (e) No licensee shall permit or allow any individual
182 under the age of eighteen years to wager at any horse or dog
183 racetrack, knowing or having reason to believe that such
184 individual is under the age of eighteen years.

185 (f) Notwithstanding the foregoing provisions of
186 subdivision (1) of subsection (b) of this section, to the
187 contrary, a thoroughbred licensee qualifying for and paying
188 the alternate reduced tax on pari-mutuel pools provided in
189 section ten of this article shall distribute the commission
190 authorized to be deducted by subdivision (1) of subsection
191 (b) of section nine of this article as follows: (i) The licensee
192 shall pay the alternate reduced tax provided in section ten
193 of this article; (ii) shall pay one tenth of one percent of such
194 pari-mutuel pools into the general fund of the county
195 commission of the county in which the racetrack is located,
196 except if within a municipality, then to such municipal

197 general fund; (iii) one half of the remainder of the
198 commission shall be paid into the special fund established
199 by the licensee and to be used for the payment of regular
200 purses offered for thoroughbred racing by the licensee; and
201 (iv) the amount remaining after the payments required
202 above shall be retained by the licensee.

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; alternate tax; credits.**

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
7 of one hundred fifty dollars. Any racing association
8 conducting dog races shall pay each day upon which dog
9 races are run a daily license tax of one hundred fifty dollars.
10 In the event thoroughbred racing, harness racing, dog
11 racing, or any combination of the foregoing are conducted
12 on the same day at the same racetrack by the same racing
13 association, only one daily license tax in the amount of two
14 hundred fifty dollars shall be paid for that day. Any such
15 daily license tax shall not apply to any local, county or state
16 fair, horse show or agricultural or livestock exposition at
17 which horse racing is conducted for not more than six days.
18 (b) Any racing association licensed by the racing
19 commission to conduct thoroughbred racing and
20 permitting and conducting pari-mutuel wagering under the
21 provisions of this article shall, in addition to the
22 aforementioned daily license tax, pay to the racing
23 commission, from the commission deducted each day by
24 such licensee from the pari-mutuel pools on thoroughbred
25 racing a tax calculated on the total daily contribution of all
26 such pari-mutuel pools conducted or made at any and every
27 thoroughbred race meeting of the licensee licensed under
28 the provisions of this article, which tax, on the pari-mutuel
29 pools conducted or made each day during the months of
30 January, February, March, October, November and

31 December shall from the effective date of this section and
32 for fiscal year one thousand nine hundred eighty-five be
33 calculated at two and six-tenths percent; for fiscal year one
34 thousand nine hundred eighty-six be calculated at two and
35 three-tenths percent; for fiscal year one thousand nine
36 hundred eighty-seven be calculated at two percent of such
37 pool; for fiscal year one thousand nine hundred eighty-
38 eight be one and one-half percent; and for fiscal year one
39 thousand nine hundred eighty-nine and each year
40 thereafter be calculated at one percent of such pool; and, on
41 the pari-mutuel pools conducted or made each day during
42 all other months, shall from the effective date of this section
43 and for fiscal year one thousand nine hundred eighty-five
44 be calculated at three and six-tenths percent; for fiscal year
45 one thousand nine hundred eighty-six be calculated at
46 three and three-tenths percent; for fiscal year one thousand
47 nine hundred eighty-seven be calculated at three percent of
48 such pool; for fiscal year one thousand nine hundred eighty-
49 eight be two and one-half percent; and for fiscal year one
50 thousand nine hundred eighty-nine be two percent of such
51 pool: *Provided*, That any such racing association operating
52 a horse racetrack in this state having an average daily
53 pari-mutuel pool on horse racing of two hundred eighty
54 thousand dollars or less per day for the race meetings of the
55 preceding calendar year shall, in lieu of payment of the
56 pari-mutuel pool tax, calculated as hereinbefore in this
57 subsection provided, be permitted to conduct pari-mutuel
58 wagering at such horse racetrack on the basis of a daily
59 pari-mutuel pool tax fixed as follows: On the daily pari-
60 mutuel pool not exceeding three hundred thousand dollars
61 the daily pari-mutuel pool tax shall be two thousand dollars
62 plus the otherwise applicable percentage rate imposed by
63 this subsection of the daily pari-mutuel pool, if any, in
64 excess of three hundred thousand dollars: *Provided*,
65 *however*, That if an association or licensee qualifying for
66 the foregoing alternate tax conducts more than one racing
67 performance, each consisting of up to ten races in a calendar
68 day, such association or licensee shall pay both the daily
69 license tax imposed in subsection (a) and the foregoing
70 alternate tax for each such performance: *Provided further*,
71 That a licensee qualifying for the foregoing alternate tax is
72 excluded from participation in the fund established by

73 section thirteen-b of this article.

74 (c) Any racing association licensed by the racing
75 commission to conduct harness racing and permitting and
76 conducting pari-mutuel wagering under the provisions of
77 this article shall, in addition to the aforementioned daily
78 license tax, pay to the racing commission, from the
79 commission deducted each day by the licensee from the
80 pari-mutuel pools on harness racing, as a tax, three percent
81 of the first one hundred thousand dollars wagered, or any
82 part thereof; four percent of the next one hundred fifty
83 thousand dollars; and five and three-fourths percent of all
84 over that amount wagered each day in all such pari-mutuel
85 pools conducted or made at any and every harness race
86 meeting of the licensee licensed under the provisions of this
87 article.

88 (d) Any racing association licensed by the racing
89 commission to conduct dog racing and permitting and
90 conducting pari-mutuel wagering under the provisions of
91 this article shall, in addition to the aforementioned daily
92 license tax, pay to the racing commission, from the
93 commission deducted each day by such licensee from the
94 pari-mutuel pools on dog racing, as a tax, four percent of
95 the first fifty thousand dollars or any part thereof of such
96 pari-mutuel pools, five percent of the next fifty thousand
97 dollars of such pari-mutuel pools, six percent of the next
98 one hundred thousand dollars of such pari-mutuel pools,
99 seven percent of the next one hundred fifty thousand
100 dollars of such pari-mutuel pools, and eight percent of all
101 over three hundred fifty thousand dollars wagered each
102 day.

103 (e) All daily license and pari-mutuel pools tax payments
104 required under the provisions of this section shall be made
105 to the racing commission or its agent after the last race of
106 each day of each horse or dog race meeting, and the pari-
107 mutuel pools tax payments shall be made from all
108 contributions to all pari-mutuel pools to each and every
109 race of the day.

110 Every association or licensee subject to the provisions of
111 this article, including the changed provisions of sections
112 nine and ten hereof, shall annually submit to the racing
113 commission and the Legislature financial statements,
114 including a balance sheet, income statement, statement of

115 change in financial position and an audit of any electronic
116 data system used for pari-mutuel tickets and betting,
117 prepared in accordance with generally accepted auditing
118 standards, as certified by an experienced public accountant
119 or a certified public accountant.

**§19-23-13. Disposition of funds for payment of outstanding
and unredeemed pari-mutuel tickets;
publication of notice; irredeemable tickets;
stakes races for dog tracks.**

1 (a) All moneys held by any licensee for the payment of
2 outstanding and unredeemed pari-mutuel tickets, if not
3 claimed within ninety days after the close of the horse or
4 dog race meeting in connection with which the tickets were
5 issued, shall be turned over by the licensee to the racing
6 commission within fifteen days after the expiration of such
7 ninety-day period, and the licensee shall give such
8 information as the racing commission may require
9 concerning such outstanding and unredeemed tickets. All
10 such moneys shall be deposited by the racing commission in
11 a banking institution of its choice in a special account to be
12 known as "West Virginia Racing Commission Special
13 Account — Unredeemed Pari-Mutuel Tickets." Notice of
14 the amount, date and place of such deposit shall be given by
15 the racing commission, in writing, to the state treasurer.
16 The racing commission shall then cause to be published a
17 notice to the holders of such outstanding and unredeemed
18 pari-mutuel tickets, notifying them to present such tickets
19 for payment at the principal office of the racing commission
20 within ninety days from the date of the publication of such
21 notice. Such notice shall be published within fifteen days
22 following the receipt of said moneys by the commission
23 from the licensee as a Class I legal advertisement in
24 compliance with the provisions of article three, chapter
25 fifty-nine of this code, and the publication area for such
26 publication shall be the county in which such horse or dog
27 race meeting was held.

28 (b) Any such pari-mutuel tickets that shall not be
29 presented for payment within ninety days from the date of
30 the publication of the notice shall thereafter be
31 irredeemable, and the moneys theretofore held for the
32 redemption of such pari-mutuel tickets shall become the

33 property of the racing commission, and shall be expended
34 as follows:

35 (1) To the owner of the winning horse in any horse race
36 at a horse race meeting held or conducted by any licensee:
37 *Provided*, That the owner of such horse is at the time of such
38 horse race a bona fide resident of this state, a sum equal to
39 ten percent of the purse won by such horse. The commission
40 may require proof that the owner was, at the time of the
41 race, a bona fide resident of this state. Upon proof by the
42 owner that he filed a personal income tax return in this state
43 for the previous two years and that he owned real or
44 personal property in this state and paid taxes in this state on
45 said property for the two previous years, he shall be
46 presumed to be a bona fide resident of this state; and

47 (2) To the breeder (that is, the owner of the mare) of the
48 winning horse in any horse race at a horse race meeting held
49 or conducted by any licensee: *Provided*, That the mare
50 foaled in this state, a sum equal to ten percent of the purse
51 won by such horse; and

52 (3) To the owner of the stallion which sired the winning
53 horse in any horse race at a horse race meeting held or
54 conducted by any licensee: *Provided*, That the mare which
55 foaled such winning horse was served by a stallion standing
56 and registered in this state, a sum equal to ten percent of the
57 purse won by such horse; and

58 (4) When the moneys in the special account, known as
59 the "West Virginia Racing Commission Special Account —
60 Unredeemed Pari-Mutuel Tickets" will more than satisfy
61 the requirements of subdivisions (1), (2) and (3), subsection
62 (b) of this section, the West Virginia racing commission
63 shall have the authority to expend the excess moneys from
64 unredeemed horse racing pari-mutuel tickets as purse
65 money in any race conditioned exclusively for West
66 Virginia bred or sired horses, and to expend the excess
67 moneys from unredeemed dog racing pari-mutuel tickets in
68 supplementing purses and establishing stake races and dog
69 racing handicaps at the dog tracks.

70 (c) Nothing contained in this article shall prohibit one
71 person from qualifying for all or more than one of the
72 aforesaid awards, or for awards under section thirteen-b of
73 this article.

74 (d) The cost of publication of the notice provided for in
75 this section shall be paid from the funds in the hands of the
76 state treasurer collected from the pari-mutuel pools tax
77 provided for in section ten of this article, when not
78 otherwise provided in the budget; but no such costs shall be
79 paid unless an itemized account thereof, under oath, be first
80 filed with the state auditor.

**§19-23-13b. West Virginia thoroughbred development fund;
distribution; restricted races; nonrestricted
purse supplements.**

1 The racing commission shall deposit moneys required to
2 be withheld by an association or licensee in subsection (b) of
3 section nine of this article in a banking institution of its
4 choice in a special account to be known as "West Virginia
5 Racing Commission Special Account. — West Virginia
6 Thoroughbred Development Fund." Notice of the amount,
7 date and place of such deposit shall be given by the racing
8 commission, in writing, to the state treasurer. The purpose
9 of the fund is to promote better breeding and racing of
10 thoroughbred horses in the state through awards and
11 purses for accredited breeders/raisers, sire owners and
12 thoroughbred race horse owners. A further objective of the
13 fund is to aid in the rejuvenation and development of the
14 present horse tracks now operating in West Virginia for
15 capital improvements, operations or increased purses
16 between the first day of July, one thousand nine hundred
17 eighty-four, and the thirty-first day of October, one
18 thousand nine hundred ninety-two.

19 The fund shall be established forthwith and operate on an
20 annual basis.

21 (a) Funds will be expended for awards and purses in the
22 following manner:

23 (i) Fifteen percent of the fund shall be available for
24 distribution for events taking place between the first day of
25 July, one thousand nine hundred eighty-four, and the
26 thirty-first day of December, one thousand nine hundred
27 eighty-five;

28 (ii) Fifty percent of the fund shall be available for
29 distribution for events taking place between the first day of
30 January, one thousand nine hundred eighty-six, and the

31 thirty-first day of December, one thousand nine hundred
32 eighty-six;

33 (iii) Seventy-five percent of the fund shall be available
34 for distribution for events taking place between the first
35 day of January, one thousand nine hundred eighty-seven,
36 and the thirty-first day of December, one thousand nine
37 hundred eighty-seven; and

38 (iv) One hundred percent of the fund shall be available
39 thereafter.

40 Awards and purses will be distributed as follows:

41 (i) The breeders/raisers of accredited thoroughbred
42 horses that earn a purse at any West Virginia meet will
43 receive a bonus award calculated at the end of the year as a
44 percentage of the fund dedicated to the breeders/raisers,
45 which shall be sixty percent of the fund available for
46 distribution in any one year. The total amount available for
47 the breeders'/raisers' awards shall be distributed according
48 to the ratio of purses earned by an accredited race horse to
49 the total amount earned in such races by all accredited race
50 horses for that year as a percentage of the fund dedicated to
51 the breeders/raisers. However, no breeder/raiser may
52 receive from the fund dedicated to breeders'/raisers'
53 awards an amount in excess of the earnings of the
54 accredited horse at West Virginia meets. In addition, should
55 a horse's breeder and raiser qualify for the same award on
56 the same horse, they will each be awarded one half of the
57 proceeds. Of the funds available for distribution in any one
58 year to breeders/raisers, neither the breeders as a group nor
59 the raisers as a group, shall, until January first, one
60 thousand nine hundred ninety-four, qualify for more than
61 sixty and one-tenth percent of such funds.

62 (ii) The owner of a West Virginia sire of an accredited
63 thoroughbred horse that earns a purse in any race at a West
64 Virginia meet will receive a bonus award calculated at the
65 end of the year as a percentage of the fund dedicated to sire
66 owners, which shall be fifteen percent of the fund available
67 for distribution in any one year. The total amount available
68 for the sire owners' awards shall be distributed according to
69 the ratio purses earned by the progeny of accredited West
70 Virginia stallions in such races for a particular stallion to
71 the total purses earned by the progeny of all accredited
72 West Virginia stallions in such races. However, no sire

73 owner may receive from the fund dedicated to sire owners
74 an amount in excess of thirty percent of the accredited
75 earnings for each sire.

76 The owner of an accredited thoroughbred horse that
77 earns a purse in any race at a West Virginia meet will receive
78 a restricted purse supplement award calculated at the end
79 of the year, which shall be twenty-five percent of the fund
80 available for distribution in any one year, based on the ratio
81 of the earnings in such races of a particular race horse to the
82 total amount earned by all accredited race horses in such
83 races during that year as a percentage of the fund dedicated
84 to purse supplements. However, the owners may not receive
85 from the fund dedicated to purse supplements an amount in
86 excess of forty percent of the total accredited earnings for
87 each accredited race horse.

88 In no event shall purses earned at a meet held at a track
89 which did not make a contribution to the thoroughbred
90 development fund out of the daily pool on the day the meet
91 was held, qualify or count toward eligibility for an award
92 under this section.

93 Any balance in the breeders/raisers, sire owners and
94 purse supplement funds after yearly distributions shall
95 revert back into the general account of the fund for
96 distribution in the next year.

97 Distributions shall be made on the fifteenth of each
98 February for the preceding year's achievements.

99 (b) The remainder, if any, of the fund that is not
100 available for distribution in the above program in any one
101 year is reserved for regular purses, marketing expenses and
102 for capital improvements in the amounts and under the
103 conditions provided hereinafter. Fifty percent of such
104 remainder shall be reserved for payments into the regular
105 purse fund established in subsection (b) of section nine of
106 this article. Up to five hundred thousand dollars per year
107 shall be available for (1) capital improvements at the
108 eligible licensed horse racing tracks in the state, and (2)
109 marketing and advertising programs above and beyond two
110 hundred fifty thousand dollars for the eligible licensed
111 horse racing tracks in the state: *Provided*, That moneys
112 shall be expended for capital improvements or marketing
113 and advertising purposes as described above only in accord
114 with a plan filed with and receiving the prior approval of

115 the racing commission, and on a basis of fifty percent
116 participation by the licensee and fifty percent participation
117 by moneys from the fund, in the total cost of approved
118 projects: *Provided, however,* That funds approved for one
119 track may not be used at another track unless the first track
120 ceases to operate or is viewed by the commission as
121 unworthy of additional investment due to financial or
122 ethical reasons.

123 (c) Each pari-mutuel thoroughbred horse track shall
124 provide at least the following restricted races in accordance
125 with the following time schedules:

126 (i) July first, one thousand nine hundred eighty-four, to
127 December thirty-first, one thousand nine hundred eighty-
128 four — one restricted race per eight racing days;

129 (ii) January first, one thousand nine hundred eighty-
130 five, to December thirty-first, one thousand nine hundred
131 eighty-five — one restricted race per seven racing days;

132 (iii) January first, one thousand nine hundred eighty-
133 six, to December thirty-first, one thousand nine hundred
134 eighty-six — one restricted race per six racing days;

135 (iv) January first, one thousand nine hundred eighty-
136 seven, to December thirty-first, one thousand nine hundred
137 eighty-seven — one restricted race per five racing days;

138 (v) January first, one thousand nine hundred eighty-
139 eight, to December thirty-first, one thousand nine hundred
140 eighty-eight — one restricted race per four racing days;

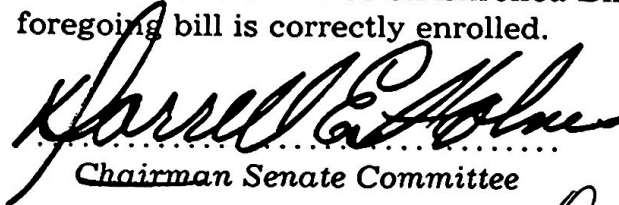
141 (vi) January first, one thousand nine hundred eighty-
142 nine, to December thirty-first, one thousand nine hundred
143 eighty-nine — one restricted race per three racing days; and

144 (vii) Thereafter, one restricted race per two racing days.

145 Restricted races shall be funded by each racing
146 association from moneys placed in the general purse fund.
147 The purses shall be twenty percent larger than the purses
148 for similar type races at each track. The racing schedules,
149 purse amounts and types of races are subject to the approval
150 of the West Virginia racing commission.

151 (d) No association or licensee qualifying for the
152 alternate tax provision of subsection (b) of section ten of
153 this article shall be eligible for participation in any of the
154 provisions of this section.

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

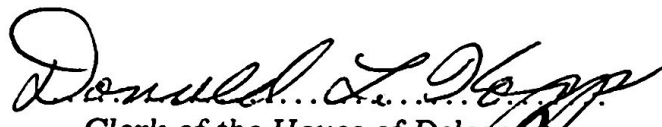

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Chairman Senate Committee


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Chairman House Committee

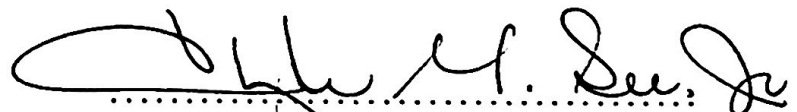
Originated in the Senate.

In effect from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within.... *is approved*this the *27*
day of *March* 1984




.....
Governor

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