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WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1984



**ENROLLED**  
*Committee Substitute for*  
SENATE BILL NO. 431

(By Mr. *Cherenta*; *Mr. McLaw*; *Mr. Pres.*)



PASSED *March 10,* 1984

In Effect *from* Passage



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 431**

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

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[Passed March 10, 1984; in effect from passage.]

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

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

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

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

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

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

*James L. Davis*  
.....  
Chairman Senate Committee

*Donald Luella*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*Judd C. Kirk*  
.....  
Clerk of the Senate

*Donald L. Stapp*  
.....  
Clerk of the House of Delegates

*Walter P. McGraw*  
.....  
President of the Senate

*John H. Seelye, Jr.*  
.....  
Speaker House of Delegates

The within... *is disapproved* ..... this the *14* .....  
day of *March* ....., 1984.

..... *John W. Dwyer* .....  
Governor

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SECY. OF STATE