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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

— ● —

ENROLLED

Com. Sub. for
HOUSE BILL No. 2395

(By *Del. Petros & Bradley*)

— ● —

Passed April 5, 1989

In Effect from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2395
(By DELEGATES PITROLO AND BRADLEY)

[Passed April 5, 1989; in effect from passage.]

AN ACT to amend and reenact section eight-a, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to horse and dog racing; applications for Sunday racing; local option election procedures; protest procedures against approval; petition calling for a local option election for Sunday racing, and an alternative method for approval or rejection of Sunday racing.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 23. HORSE AND DOG RACING.

PART V-A. SUNDAY RACING.

§19-23-8a. Applications for Sunday racing; local option election procedures; protest procedures against approval.

- 1 (a) A racing association licensed under the provisions
- 2 of section one of this article and operating a horse or
- 3 dog racetrack in a county may make application for

4 permission to conduct horse or dog racing on Sunday,
5 between the hours of one p.m. and six p.m., local time.

6 Such application shall be filed with the racing
7 commission. The racing commission shall prescribe
8 blank forms to be used in making such application.

9 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 of the
12 application, shall prepare and publish a notice to the
13 public that the racing commission has granted tentative
14 approval of the application, that the racing commission
15 solicits public comment from the citizens of the county
16 and will hold a public hearing in the county on a date
17 specified in the notice in the county wherein the horse
18 racing track or dog racing track is located, that the
19 racing commission shall take such comment into
20 consideration in deciding whether or not to grant or
21 deny final approval, and that the racing commission will
22 make final approval of such application at the expira-
23 tion of sixty days from the date of the first publication
24 of such notice, which date shall be specified in said
25 notice, unless within that time in accordance with
26 subsection (c) of this section, the county commission of
27 the county in which such racetrack is located shall order
28 an election. Such notice shall be published as a Class II
29 legal advertisement in compliance with the provisions of
30 article three, chapter fifty-nine of this code, and the
31 publication area for such publication shall be the county
32 in which the racetrack is located: *Provided*, That prior
33 to granting final approval hereunder, the racing
34 commission shall solicit public comment from the
35 citizens of the county, and hold a public hearing in the
36 county on a date specified in the hearing notice specified
37 above, in the county wherein the horse racing track or
38 dog racing track is located and shall take such comment
39 into consideration in deciding whether or not to grant
40 final tentative approval. If no such election is ordered,
41 the racing commission shall proceed to consider final
42 approval of the application.

43 (b) The county commission shall, upon the written
44 petition of qualified voters residing within the county

45 equal to at least fifteen percent of the number of persons
46 who voted in that county in the next preceding general
47 election, received within the period specified in subsec-
48 tion (a) of this section, which petition may be in any
49 number of counterparts, order an election to determine
50 whether it is the will of the voters of said county that
51 racing be permitted on Sundays in said county, which
52 election shall be held at the next primary or general
53 election held in such county. The racing commission
54 shall permit such racing pending certification of the
55 results of the election.

56 (c) If such election is ordered, the county commission
57 shall give notice of such election by publication of such
58 notice as a Class II-0 legal advertisement in accordance
59 with the provisions of article three, chapter fifty-nine of
60 this code. Such notice shall be published within twenty-
61 one consecutive days next preceding the date of said
62 election.

63 (d) The ballot, or the ballot labels where voting
64 machines are used, shall have printed thereon substan-
65 tially the following:

66 "Shall the West Virginia Racing Commission be
67 authorized to approve horse racing on Sundays between
68 the hours of one p.m. and six p.m. in _____ County,
69 West Virginia?

70 Yes No

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

73 In a county in which dog racing is conducted, the term
74 "dog racing" shall be substituted for "horse racing" on
75 the ballot or ballot label.

76 (e) Each individual qualified to vote in said county
77 shall be qualified to vote at such election. The votes in
78 said election shall be counted and returns made by the
79 election officers and the results certified by the
80 commissioners of election to said county commission,
81 which shall canvass the ballots, all in accordance with
82 the laws of this state relating to general elections insofar
83 as the same are applicable. The county commission

84 shall, without delay, canvass the votes cast at such
85 election and certify the results thereof to the racing
86 commission, and shall transmit a certified copy of said
87 results to the secretary of state.

88 (f) After the certification of the results of such
89 election, the racing commission shall: (1) grant final
90 approval of an application for a license which contains
91 racing dates which fall on Sunday if a majority of the
92 voters voting at such election vote yes, and on such
93 racing dates all racing and other activities authorized
94 by this article shall be lawful, any other provisions of
95 this code to the contrary notwithstanding; or (2) deny
96 final approval of an application for a license which
97 contains racing dates which fall on Sunday if less than
98 a majority of the voters voting at such election vote yes.

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

103 (h) After five years from such final approval, it shall
104 be the duty of the county commission upon a petition in
105 writing of qualified voters residing within the county
106 equal to at least fifteen percent of the number of persons
107 who voted in that county in the next preceding general
108 election, which petition may be in any number of
109 counterparts, to order an election to determine whether
110 it is the will of the voters of said county that racing on
111 Sundays be discontinued in said county. The provisions
112 of subsections (c) and (e) of this section shall govern said
113 election. The ballot, or the ballot labels where voting
114 machines are used, shall have printed thereon substan-
115 tially the following:

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

118 Yes No

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

121 In a county in which dog racing is conducted, the
122 word "dogs" shall be substituted for "horses" on the

123 ballot or ballot label. If it be the will of a majority of
124 the voters of said county that Sunday racing be
125 discontinued in said county, it shall be the duty of the
126 racing commission thereafter, for a period of at least
127 five years and until a subsequent election shall other-
128 wise direct, to deny applications to race on Sundays in
129 said county.

130 (i) Upon the written petition of qualified voters
131 residing within the county equal to at least thirty
132 percent of the number of persons who voted in that
133 county in the next preceding general election, which
134 petition may be in any number of counterparts, pre-
135 sented to the racing commission within sixty days after
136 the expiration of such publication protesting against
137 such tentative approval, the approval may not become
138 effective and another petition may not be filed for a
139 period of five years.

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

Frederick L. Parker
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect from passage.

Paul C. Miller
Clerk of the Senate

Donald L. Hoyle
Clerk of the House of Delegates

Lawrence
President of the Senate

Robert
Speaker of the House of Delegates

The within *is approved* this the *27th*
day of *April*, 1989.

Easton Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 4/14/89

Time 5:11