

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991

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SECRETARY OF STATE

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## ENROLLED

SENATE BILL NO. 384

(By Senator Lucht)

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PASSED March 8, 1991

In Effect 90 days from Passage

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**Senate Bill No. 384**  
(BY SENATOR LUCHT)

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[Passed March 8, 1991; in effect ninety days from passage.]

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AN ACT to amend and reenact section thirteen-b, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to establishing four stakes races including a West Virginia futurity race and a Frank Gall memorial stakes race; increasing sire owners share; decreasing purse supplements; and providing for administration and funding of restricted races.

*Be it enacted by the Legislature of West Virginia:*

That section thirteen-b, 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.**

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

1   The racing commission shall deposit moneys  
2   required to be withheld by an association or licensee  
3   in subsection (b), section nine of this article in a  
4   banking institution of its choice in a special account to  
5   be known as "West Virginia Racing Commission  
6   Special Account—West Virginia Thoroughbred Devel-

7 opment Fund". Notice of the amount, date and place  
8 of such deposit shall be given by the racing commis-  
9 sion, in writing, to the state treasurer. The purpose of  
10 the fund is to promote better breeding and racing of  
11 thoroughbred horses in the state through awards and  
12 purses for accredited breeders/raisers, sire owners and  
13 thoroughbred race horse owners. A further objective  
14 of the fund is to aid in the rejuvenation and develop-  
15 ment of the present horse tracks now operating in  
16 West Virginia for capital improvements, operations or  
17 increased purses between the first day of July, one  
18 thousand nine hundred eighty-four, and the thirty-  
19 first day of October, one thousand nine hundred  
20 ninety-two: *Provided*, That five percent of the deposits  
21 required to be withheld by an association or licensee  
22 in subsection (b), section nine of this article shall be  
23 placed in a special revenue account hereby created in  
24 the state treasury called the "administration and  
25 promotion account". The racing commission is autho-  
26 rized to expend the moneys deposited in the adminis-  
27 tration and promotion account at such times and in  
28 such amounts as the commission determines to be  
29 necessary for purposes of administering and promoting  
30 the thoroughbred development program: *Provided*,  
31 *however*, That during any fiscal year in which the  
32 commission anticipates spending any money from such  
33 account, the commission shall submit to the executive  
34 department during the budget preparation period  
35 prior to the Legislature convening before that fiscal  
36 year for inclusion in the executive budget document  
37 and budget bill, the recommended expenditures, as  
38 well as requests of appropriations for the purpose of  
39 administration and promotion of the program. The  
40 commission shall make an annual report to the Legis-  
41 lature on the status of the administration and promo-  
42 tion account, including the previous year's expendi-  
43 tures and projected expenditures for the next year.

44 The funds shall be established forthwith and operate  
45 on an annual basis.

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

48 (i) Fifteen percent of the fund shall be available for  
49 distribution for events taking place between the first  
50 day of July, one thousand nine hundred eighty-four,  
51 and the thirty-first day of December, one thousand  
52 nine hundred eighty-five;

53 (ii) Fifty percent of the fund shall be available for  
54 distribution for events taking place between the first  
55 day of January, one thousand nine hundred eighty-six,  
56 and the thirty-first day of December, one thousand  
57 nine hundred eighty-six;

58 (iii) Seventy-five percent of the fund shall be  
59 available for distribution for events taking place  
60 between the first day of January, one thousand nine  
61 hundred eighty-seven, and the thirty-first day of  
62 December, one thousand nine hundred eighty-seven;

63 (iv) One hundred percent of the fund shall be  
64 available thereafter; and

65 (v) After the first day of July, one thousand nine  
66 hundred ninety-one, and after the thirty-first day of  
67 December, one thousand nine hundred ninety-one,  
68 and annually thereafter, the first one hundred thou-  
69 sand dollars of the fund shall be available for distribu-  
70 tion for a maximum of four stakes races. One of these  
71 races shall be the West Virginia futurity and the  
72 second shall be the Frank Gall memorial stakes. The  
73 remaining races may be chosen by the committee set  
74 forth in subsection (b) of this section.

75 (b) Awards and purses will be distributed as follows:

76 (i) The breeders/raisers of accredited thoroughbred  
77 horses that earn a purse at any West Virginia meet  
78 will receive a bonus award calculated at the end of the  
79 year as a percentage of the fund dedicated to the  
80 breeders/raisers, which shall be sixty percent of the  
81 fund available for distribution in any one year. The  
82 total amount available for the breeders'/raisers'  
83 awards shall be distributed according to the ratio of  
84 purses earned by an accredited race horse to the total  
85 amount earned in such races by all accredited race  
86 horses for that year as a percentage of the fund

87 dedicated to the breeders/raisers. However, no  
88 breeder/raiser may receive from the fund dedicated to  
89 breeders'/raisers' awards an amount in excess of the  
90 earnings of the accredited horse at West Virginia  
91 meets. In addition, should a horse's breeder and raiser  
92 qualify for the same award on the same horse, they  
93 will each be awarded one half of the proceeds. Of the  
94 funds available for distribution in any one year to  
95 breeders/raisers, neither the breeders as a group nor  
96 the raisers as a group, shall, until the first day of  
97 January, one thousand nine hundred ninety-four,  
98 qualify for more than sixty and one-tenth percent of  
99 such funds.

100 (ii) The owner of a West Virginia sire of an accre-  
101 dited thoroughbred horse that earns a purse in any  
102 race at a West Virginia meet will receive a bonus  
103 award calculated at the end of the year as a percent-  
104 age of the fund dedicated to sire owners, which shall  
105 be fifteen percent of the fund available for distribution  
106 in any one year. The total amount available for the  
107 sire owners' awards shall be distributed according to  
108 the ratio purses earned by the progeny of accredited  
109 West Virginia stallions in such races for a particular  
110 stallion to the total purses earned by the progeny of all  
111 accredited West Virginia stallions in such races.  
112 However, no sire owner may receive from the fund  
113 dedicated to sire owners an amount in excess of thirty  
114 five percent of the accredited earnings for each sire.

115 (iii) The owner of an accredited thoroughbred horse  
116 that earns a purse in any race at a West Virginia meet  
117 will receive a restricted purse supplement award  
118 calculated at the end of the year, which shall be  
119 twenty-five percent of the fund available for distribu-  
120 tion in any one year, based on the ratio of the earnings  
121 in such races of a particular race horse to the total  
122 amount earned by all accredited race horses in such  
123 races during that year as a percentage of the fund  
124 dedicated to purse supplements. However, the owners  
125 may not receive from the fund dedicated to purse  
126 supplements an amount in excess of thirty-five per-  
127 cent of the total accredited earnings for each accre-

128 dited race horse.

129 (iv) In no event shall purses earned at a meet held  
130 at a track which did not make a contribution to the  
131 thoroughbred development fund out of the daily pool  
132 on the day the meet was held qualify or count toward  
133 eligibility for an award under this section.

134 (v) Any balance in the breeders/raisers, sire owners  
135 and purse supplement funds after yearly distributions  
136 shall: (1) Be utilized to fund the races established in  
137 subsection (d) of this section; and (2) revert back into  
138 the general account of the fund for distribution in the  
139 next year.

140 Distribution shall be made on the fifteenth of each  
141 February for the preceding year's achievements.

142 (c) The remainder, if any, of the fund that is not  
143 available for distribution in the above program in any  
144 one year is reserved for regular purses, marketing  
145 expenses and for capital improvements in the amounts  
146 and under the conditions provided hereinafter. Fifty  
147 percent of such remainder shall be reserved for  
148 payments into the regular purse fund established in  
149 subsection (b), section nine of this article. Up to five  
150 hundred thousand dollars per year shall be available  
151 for: (1) Capital improvements at the eligible licensed  
152 horse racing tracks in the state; and (2) marketing and  
153 advertising programs above and beyond two hundred  
154 fifty thousand dollars for the eligible licensed horse  
155 racing tracks in the state: *Provided*, That moneys shall  
156 be expended for capital improvements or marketing  
157 and advertising purposes as described above only in  
158 accord with a plan filed with and receiving the prior  
159 approval of the racing commission, and on a basis of  
160 fifty percent participation by the licensee and fifty  
161 percent participation by moneys from the fund, in the  
162 total cost of approved projects: *Provided, however*,  
163 That funds approved for one track may not be used at  
164 another track unless the first track ceases to operate or  
165 is viewed by the commission as unworthy of additional  
166 investment due to financial or ethical reasons.

167 (d) Each pari-mutuel thoroughbred horse track shall

168 provide at least the following restricted races in  
169 accordance with the following time schedules:

170 (i) The first day of July, one thousand nine hundred  
171 eighty four, to the thirty-first day of December, one  
172 thousand nine hundred eighty-four — one restricted  
173 race per eight racing days;

174 (ii) The first day of January, one thousand nine  
175 hundred eighty-five, to the thirty-first day of Decem-  
176 ber, one thousand nine hundred eighty-five — one  
177 restricted race per seven racing days;

178 (iii) The first day of January, one thousand nine  
179 hundred eighty-six, to the thirty-first day of Decem-  
180 ber, one thousand nine hundred eighty-six — one  
181 restricted race per six racing days;

182 (iv) The first day of January, one thousand nine  
183 hundred eighty-seven, to the thirty-first day of  
184 December, one thousand nine hundred eighty-seven —  
185 one restricted race per five racing days;

186 (v) The first day of January, one thousand nine  
187 hundred eighty-eight, to the thirty-first day of Decem-  
188 ber, one thousand nine hundred eighty-eight — one  
189 restricted race per four racing days;

190 (vi) The first day of January, one thousand nine  
191 hundred eighty-nine, to the thirty-first day of Decem-  
192 ber, one thousand nine hundred eighty-nine — one  
193 restricted race per three racing days; and thereafter.  
194 The restricted races established in this subsection shall  
195 be administered by a three-member committee con-  
196 sisting of: (1) The racing secretary; (2) a member  
197 appointed by the authorized representative of a  
198 majority of the owners and trainers at the thorough-  
199 bred track; and (3) a member appointed by a majority  
200 of the thoroughbred breeders. The purses shall be  
201 twenty percent larger than the purses for similar type  
202 races at each track. Restricted races shall be funded by  
203 each racing association from:

204 (1) Moneys placed in the general purse fund up to a  
205 maximum of one hundred fifty thousand dollars per  
206 year.

207 (2) Moneys as provided in subdivision (v), subsection  
208 (b) of this section shall be placed in a special fund  
209 called the "West Virginia accredited race fund". The  
210 racing schedules, purse amounts and types of races are  
211 subject to the approval of the West Virginia racing  
212 commission.

213 (e) No association or licensee qualifying for the  
214 alternate tax provision of subsection (b), section ten of  
215 this article shall be eligible for participation in any of  
216 the provisions of this section.

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

*Forner Heck*  
.....  
Chairman Senate Committee

*Ernest C. Moore*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Harriet E. Adams*  
.....  
Clerk of the Senate

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

*Keith Brewster*  
.....  
President of the Senate

*Bob C. Clark*  
.....  
Speaker House of Delegates

The within *is approved* this the *27th*  
day of *March* ....., 1991.

*Gaston Caperton*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/91

Time 3:00 pm