WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993

ENROLLED

Com. 3d. For

HOUSE BILL No. 2785

(By Delegate Manuel)

Passed April 10, 1993

In Effect Ninety Day from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2785
(By Delegate Manuel)

[Passed April 10, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact sections ten, twelve-b and thirteen-b, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the daily license tax; the pari-mutuel pools tax; method of paying the taxes; alternative taxes; providing for alternative participation in the thoroughbred development fund; supplemental purses for West Virginia whelped dogs; televised racing days; providing for exemptions to the number of live racing dates required; appointment of binding arbitration board; providing that licensee pay one tenth of one percent of certain commissions to the general fund of certain counties; merging of pari-mutuel wagering pools; qualifications for merged simulcast pools; providing for payment of certain commissions into the pari-mutuel clerks' pension fund; distribution of thoroughbred development fund; restricted races; and nonrestricted purse supplements.

Be it enacted by the Legislature of West Virginia:

That sections ten, twelve-b and 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, all to read as follows:
ARTICLE 23. HORSE AND DOG RACING.

§19-23-10. Daily license tax; pari-mutuel pools tax; how taxes paid; alternate tax; credits.

(a) Any racing association conducting thoroughbred racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of two hundred fifty dollars. Any racing association conducting harness racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of one hundred fifty dollars. Any racing association conducting dog races shall pay each day upon which dog races are run a daily license tax of one hundred fifty dollars. In the event thoroughbred racing, harness racing, dog racing, or any combination of the foregoing are conducted on the same day at the same racetrack by the same racing association, only one daily license tax in the amount of two hundred fifty dollars shall be paid for that day. Any daily license tax shall not apply to any local, county or state fair, horse show or agricultural or livestock exposition at which horse racing is conducted for not more than six days.

(b) Any racing association licensed by the racing commission to conduct thoroughbred racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax set forth in subsection (a) of this section, pay to the racing commission, from the commission deducted each day by the licensee from the pari-mutuel pools on thoroughbred racing a tax calculated on the total daily contribution of all pari-mutuel pools conducted or made at any and every thoroughbred race meeting of the licensee licensed under the provisions of this article. The tax, on the pari-mutuel pools conducted or made each day during the months of January, February, March, October, November and December shall from the effective date of this section and for fiscal year one thousand nine hundred eighty-five, be calculated at two and six-tenths percent; for fiscal year one thousand nine hundred eighty-six, be calculated at two and three-tenths percent; for fiscal year one thousand nine hundred eighty-seven, be calculated at two percent of
the pool; for fiscal year one thousand nine hundred eighty-eight, be calculated at one and one-half percent; for fiscal year one thousand nine hundred eighty-nine, be calculated at one percent of the pool; for fiscal year one thousand nine hundred ninety, seven-tenths of one percent, and for fiscal year one thousand nine hundred ninety-one and each fiscal year thereafter be calculated at four-tenths of one percent of the pool; and, on the pari-mutuel pools conducted or made each day during all other months, shall from the effective date of this section and for fiscal year one thousand nine hundred eighty-five, be calculated at three and six-tenths percent; for fiscal year one thousand nine hundred eighty-six, be calculated at three and three-tenths percent; for fiscal year one thousand nine hundred eighty-seven, be calculated at three percent of the pool; for fiscal year one thousand nine hundred eighty-eight, be calculated at two and one-half percent; for fiscal year one thousand ninety, be calculated at one and seven-tenths percent of the pool; and for fiscal year one thousand ninety-one and each fiscal year thereafter, be calculated at one and four-tenths percent of the pool: Provided, That out of the amount realized from the three-tenths of one percent decrease in the tax effective for fiscal year one thousand nine hundred ninety-one and thereafter, which decrease correspondingly increases the amount of commission retained by the licensee, the licensee shall annually expend or dedicate (i) one-half of the realized amount for capital improvements in its barn area at the track, subject to the racing commission's prior approval of the plans for the improvements, and (ii) the remaining one-half of the realized amount for capital improvements as the licensee may determine appropriate at the track. The term "capital improvement" shall be as defined by the Internal Revenue Code: Provided, however, That any racing association operating a horse racetrack in this state having an average daily pari-mutuel pool on horse racing of two hundred eighty thousand dollars or less per day for the race meetings of the preceding calendar year shall, in lieu...
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81 of payment of the pari-mutuel pool tax, calculated as in
82 this subsection, be permitted to conduct pari-mutuel
83 wagering at the horse racetrack on the basis of a daily
84 pari-mutuel pool tax fixed as follows: On the daily pari-
85 mutuel pool not exceeding three hundred thousand
86 dollars the daily pari-mutuel pool tax shall be one
87 thousand dollars plus the otherwise applicable percen-
88 tage rate imposed by this subsection of the daily pari-
89 mutuel pool, if any, in excess of three hundred thousand
90 dollars: Provided further, That upon the effective date
91 of the reduction of the daily pari-mutuel pool tax to one
92 thousand dollars from the former two thousand dollars,
93 the association or licensee shall daily deposit five
94 hundred dollars into the special fund for regular purses
95 established by subdivision one, subsection (b), section
96 nine of this article: And provided further, That if an
97 association or licensee qualifying for the foregoing
98 alternate tax conducts more than one racing perfor-
99 mance, each consisting of up to ten races in a calendar
100 day, the association or licensee shall pay both the daily
101 license tax imposed in subsection (a) of this section and
102 the alternate tax in this subsection for each perfor-
103 mance: And provided further, That a licensee qualifying
104 for the foregoing alternate tax is excluded from
105 participation in the fund established by section thirteen-
106 b of this article: And provided further, That this
107 exclusion shall not apply to any thoroughbred race track
108 at which the licensee has participated in the West
109 Virginia thoroughbred development fund for more than
110 four consecutive years prior to the thirty-first day of
111 December, one thousand nine hundred ninety-two.

112 (c) Any racing association licensed by the racing
113 commission to conduct harness racing and permitting
114 and conducting pari-mutuel wagering under the provi-
115 sions of this article shall, in addition to the daily license
116 tax required under subsection (a) of this section, pay to
117 the racing commission, from the commission deducted
118 each day by the licensee from the pari-mutuel pools on
119 harness racing, as a tax, three percent of the first one
120 hundred thousand dollars wagered, or any part thereof;
121 four percent of the next one hundred fifty thousand
122 dollars; and five and three-fourths percent of all over
that amount wagered each day in all pari-mutuel pools conducted or made at any and every harness race meeting of the licensee licensed under the provisions of this article.

(d) Any racing association licensed by the racing commission to conduct dog racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax required under subsection (a) of this section, pay to the racing commission, from the commission deducted each day by the licensee from the pari-mutuel pools on dog racing, as a tax, four percent of the first fifty thousand dollars or any part thereof of the pari-mutuel pools, five percent of the next fifty thousand dollars of the pari-mutuel pools, six percent of the next one hundred thousand dollars of the pari-mutuel pools, seven percent of the next one hundred fifty thousand dollars of the pari-mutuel pools, and eight percent of all over three hundred fifty thousand dollars wagered each day: Provided, That the licensee shall deduct daily from the pari-mutuel tax an amount equal to one-tenth of one percent of the daily pari-mutuel pools in dog racing in fiscal year one thousand nine hundred ninety; fifteen hundreds of one percent in fiscal year one thousand nine hundred ninety-one; two-tenths of one percent in fiscal year one thousand nine hundred ninety-two; one quarter of one percent in fiscal year one thousand nine hundred ninety-three; and three-tenths of one percent in fiscal year one thousand nine hundred ninety-four and every fiscal year thereafter. The amounts deducted shall be paid to the racing commission in a banking institution of its choice in a special account to be known as “West Virginia Racing Commission-Special Account-West Virginia greyhound breeding development fund.” The purpose of the fund is to promote better breeding and racing of greyhounds in the state through awards and purses for accredited West Virginia whelped greyhounds. The moneys shall be expended by the racing commission for purses for stake races, supplemental purse awards, administration, promotion and educational programs involving West Virginia whelped dogs, under rules and
regulations promulgated by the racing commission. The
racing commission shall pay out of the greyhound
breeding development fund to each of the licensed dog
racing tracks the sum of seventy-five thousand dollars
for the fiscal year ending the thirtieth day of June, one
thousand nine hundred ninety-four. The licensee shall
deposit the sum into the special fund for regular purses
established under the provisions of section nine of this
article. The funds shall be expended solely for the
purpose of supplementing regular purses under rules
and regulations promulgated by the racing commission.

Supplemental purse awards will be distributed as
follows: Supplemental purses shall be paid directly to
the owner of an accredited greyhound or, if the
greyhound is leased, the owner may choose to designate
a percentage of the purse earned directly to the lessor
as agreed to via a written purse distribution form on file
with the racing commission.

The owner of accredited West Virginia whelped
greyhounds that earn a purse at any West Virginia meet
will receive a bonus award calculated at the end of each
month as a percentage of the fund dedicated to the
owners as purse supplements, which shall be a min-
imum of fifty percent of the total monies deposited into
the West Virginia greyhound breeding development
fund monthly.

The total amount of the fund available for the owners'
awards shall be distributed according to the ratio of
purses earned by an accredited greyhound to the total
amount earned in races by all accredited West Virginia
whelped greyhounds for that month as a percentage of
the funds dedicated to the owners' purse supplements.

The owner of an accredited West Virginia whelped
greyhound shall file a purse distribution form with the
racing commission for a percentage of his or her dog's
earnings to be paid directly to the lessor of the
greyhound. Distribution shall be made on the fifteenth
day of each month for the preceding month's
achievements.

In no event shall purses earned at a meet held at a
track which did not make contributions to the West
Virginia Greyhound Breeder's Development Fund out of
the daily pool on the day the meet was held qualify or
count toward eligibility for supplemental purse awards.

Any balance in the purse supplement funds after all
distributions have been made for the year revert to the
general account of the fund for distribution in the
following year.

In an effort to further promote the breeding of quality
West Virginia whelped greyhounds, a bonus purse
supplement shall be established in the amount of fifty
thousand dollars per annum, to be paid in equal
quarterly installments of twelve thousand five hundred
dollars per quarter using the same method to calculate
and distribute these funds as the regular supplemental
purse awards. This bonus purse supplement is for three
years only, commencing on the first day of July, one
thousand nine hundred ninety-three and ending the
thirtieth day of June, one thousand nine hundred ninety-six. This money would come from the current existing
balance in the Greyhound Development Fund.

Each pari-mutuel greyhound track shall provide
stakes races for accredited West Virginia whelped
greyhounds: Provided, That each pari-mutuel track
shall have one juvenile and one open stake race annually.
The racing commission shall oversee and approve racing
schedules and purse amounts.

Ten percent of the deposits into the greyhound
breeding development fund beginning the first day of
July, one thousand nine hundred ninety-three and
continuing each year thereafter, shall be withheld by the
racing commission and placed in a special revenue
account hereby created in the state treasury called the
“administration, promotion and educational account”.
The racing commission is authorized to expend the
moneys deposited in the administration, promotion and
educational account at such times and in such amounts
as the commission determines to be necessary for
purposes of administering and promoting the greyhound
development program: Provided, That beginning with
fiscal year one thousand nine hundred ninety-five and
in each fiscal year thereafter in which the commission
anticipates spending any money from the account, the
commission shall submit to the executive department
during the budget preparation period prior to the
Legislature convening before that fiscal year for
inclusion in the executive budget document and budget
bill, the recommended expenditures, as well as requests
of appropriations for the purpose of administration,
promotion and education. The commission shall make an
annual report to the Legislature on the status of the
administration, promotion and education account,
including the previous year's expenditures and projected
expenditures for the next year.

The racing commission, for the fiscal year one
thousand nine hundred ninety-four only, may expend up
to thirty-five thousand dollars from the West Virginia
greyhound breeding development fund to accomplish
the purposes of this section without strictly following the
requirements in the previous paragraph.

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

(f) Every association or licensee subject to the
provisions of this article, including the changed provi-
sions of sections nine and ten of this article, shall
annually submit to the racing commission and the
Legislature financial statements, including a balance
sheet, income statement, statement of change in finan-
cial position and an audit of any electronic data system
used for pari-mutuel tickets and betting, prepared in
accordance with generally accepted auditing standards,
as certified by an experienced public accountant or a
certified public accountant.

§19-23-12b. Televised racing days; merging of pari-
mutuel wagering pools.
(a) For the purposes of this section:

(1) "Televised racing day" means a calendar day, assigned by the commission, at a licensed racetrack on which pari-mutuel betting is conducted on horse or dog races run at racetracks outside of the state which are broadcast by television at a licensed racetrack and which day or days have had the prior written approval of the representative of the majority of the owners and trainers who hold permits required by section two of this article; and

(2) "Host racing association" means any person who, pursuant to a license or other permission granted by the host state, conducts the horse or dog race subject to the interstate wager.

(b) A licensee conducting not less than two hundred twenty live racing dates for each horse or dog race meeting may, with the prior approval of the state racing commission, contract with any legal wagering entity in any other state to receive telecasts and accept wagers on races conducted by the legal wagering entity: Provided, That at those thoroughbred racetracks participating in the West Virginia Thoroughbred Development Fund authorized by section thirteen-b of this article, the licensee, in applying for racing dates, shall apply for not less than two hundred twenty live racing dates for each horse race meeting. If, thereafter, for reasons beyond the licensees control, the licensee concludes that this number of racing days cannot be attained, the licensee may file a request with the racing commission to reduce the authorized live racing days. Upon receipt of the request the racing commission shall within seventy-two hours of the receipt of the request notify the licensee and the representative of a majority of the owners and trainers at the requesting track that such request has been received and that if no objection to the request is received within ten days of the notification the request will be approved. If an objection is received by the commission within the time limits, the commission shall establish a binding arbitration board. The board shall consist of one member appointed by the licensee, one member appointed by the representative of
a majority of the owners and trainers at the racetrack
and a third member to be selected by the two appointed
members. In the event the two members cannot agree
on the third member, each member shall submit two
names to the racing commission and from those names
the racing commission shall appoint the third member
of the board. The board shall hear from all parties
concerned and thereupon shall make recommendations
to the racing commission on the required number of live
racing days. The recommendations of the board are
final. The telecasts may be received and wagers
accepted at any location authorized by the provisions of
section twelve-a of this article. The contract must
receive the approval of the representative of the
majority of the owners and trainers who hold permits
required by section two of this article at the receiving
racetrack.

(c) The commission may allow the licensee to com-
mingle its wagering pools with the wagering pools of the
host racing association. If the pools are commingled, the
wagering at the licensee's racetrack must be on
tabulating equipment capable of issuing pari-mutuel
tickets and be electronically linked with the equipment
at the sending racetrack. Subject to the approval of the
commission, the types of betting, licensee commissions
and distribution of winnings on pari-mutuel pools of the
sending licensee racetrack are those in effect at the
licensee racetrack. Breakage for pari-mutuel pools on a
televised racing day must be calculated in accordance
with the law or rules governing the sending racetrack
and must be distributed in a manner agreed to between
the licensee and the sending racetrack.

(d) The commission may assign televised racing days
at any time. When a televised racing day is assigned,
the commission shall assign either a steward or an
auditor to preside over the televised races at the licensee
racetrack.

(e) (1) From the licensee commissions authorized by
subsection (c) of this section, the licensee shall pay one
tenth of one percent of each commission into the general
fund of the county, in which the racetrack is located and
at which the wagering occurred and there is imposed
and the licensee shall pay, for each televised racing day
on which the total pari-mutuel pool exceeds one hundred
thousand dollars, the greater of either: (i) The total of
the daily license tax and the pari-mutuel pools tax
required by section ten of this article; or (ii) a daily
license tax of one thousand two hundred fifty dollars.
For each televised racing day on which the total pari-
mutuel pool is one hundred thousand dollars or less, the
licensee shall pay a daily license tax of five hundred
dollars plus an additional license tax of one hundred
dollars for each ten thousand dollars, or part thereof,
that the pari-mutuel pool exceeds fifty thousand dollars,
but does not exceed one hundred thousand dollars.
Payments of the tax imposed by this section are subject
to the requirements of subsection (e), section ten of this
article.

(2) From the license commissions authorized by
subsection (c) of this section, after payments are made
in accordance with the provisions of subdivision (1) of
this subsection, the licensee shall pay, for each televised
racing day, one-fourth of one percent of the total pari-
mutuel pools for and on behalf of the pari-mutuel clerks.
The payment shall be made for and on behalf of the
pari-mutuel clerks by making a deposit into a special
fund to be established by the racing commission to be
used for payment into the pari-mutuel clerks' pension
plan.

(f) After deducting the tax required by subsection (e)
of this section, the amount required to be paid under the
terms of the contract with the legal wagering entity of
another state and the cost of transmission, the horse
racing association shall make a deposit equal to fifty
percent of the remainder into the purse fund established
under the provisions of subdivision (1), subsection (b),
section nine of this article.

(g) The provisions of the “Federal Interstate Horser-
acing Act of 1978”, also known as Public Law 95-515,
Section 3001-3007 of Title 15, U.S. Code, as amended,
controls in determining the intent of this section.
(h) The handle from televised simulcast racing shall not be included in the calculation of "average daily handle" as it is calculated in section ten of this article to determine the alternative daily pari-mutuel pool tax.

PART IX. DISPOSITION OF PERMIT FEES, REGISTRATION FEES AND FINES.

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

The racing commission shall deposit moneys required to be withheld by an association or licensee in subsection (b), section nine of this article in a banking institution of its choice in a special account to be known as “West Virginia Racing Commission Special Account — West Virginia Thoroughbred Development Fund”. Notice of the amount, date and place of the deposit shall be given by the racing commission, in writing, to the state treasurer. The purpose of the fund is to promote better breeding and racing of thoroughbred horses in the state through awards and purses for accredited breeders/raisers, sire owners and thoroughbred race horse owners. A further objective of the fund is to aid in the rejuvenation and development of the present horse tracks now operating in West Virginia for capital improvements, operations or increased purses between the first day of July, one thousand nine hundred eighty-four, and the thirty-first day of October, one thousand nine hundred ninety-two: Provided, That five percent of the deposits required to be withheld by an association or licensee in subsection (b), section nine of this article shall be placed in a special revenue account hereby created in the state treasury called the “administration and promotion account”. The racing commission is authorized to expend the moneys deposited in the administration and promotion account at such times and in such amounts as the commission determines to be necessary for purposes of administering and promoting the thoroughbred development program: Provided, however, That during any fiscal year in which the commission anticipates spending any money from the account, the commission shall submit to the executive
department during the budget preparation period prior
to the Legislature convening before that fiscal year for
inclusion in the executive budget document and budget
bill the recommended expenditures, as well as requests
of appropriations for the purpose of administration and
promotion of the program. The commission shall make
an annual report to the Legislature on the status of the
administration and promotion account, including the
previous year's expenditures and projected expenditures
for the next year.

The funds shall be established immediately and
operate on an annual basis.

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

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

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

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

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

(v) After the first day of July, one thousand nine
hundred ninety-one, and after the thirty-first day of
December, one thousand nine hundred ninety-one, and
annually thereafter, the first one hundred thousand
dollars of the fund shall be available for distribution for
a maximum of four stakes races. One of these races shall
be the West Virginia futurity and the second shall be
the Frank Gall memorial stakes. The remaining races

may be chosen by the committee set forth in subsection
(b) of this section.

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

(i) The breeders/raisers of accredited thoroughbred
horses that earn a purse at any West Virginia meet will
receive a bonus award calculated at the end of the year
as a percentage of the fund dedicated to the breeders/raisers, which shall be sixty percent of the fund
available for distribution in any one year. The total
amount available for the breeders/raisers' awards shall
be distributed according to the ratio of purses earned
by an accredited race horse to the total amount earned
in the races by all accredited race horses for that year
as a percentage of the fund dedicated to the breeders/raisers. However, no breeder/raiser may receive
from the fund dedicated to breeders/raisers' awards an
amount in excess of the earnings of the accredited horse
at West Virginia meets. In addition, should a horse's
breeder and raiser qualify for the same award on the
same horse, they will each be awarded one half of the
proceeds. Of the funds available for distribution in any
one year to breeders/raisers, neither the breeders as a
group nor the raisers as a group shall, until the first day
of January, one thousand nine hundred ninety-four,
qualify for more than sixty and one-tenth percent of the
funds. The bonus referred to in this subdivision shall
only be paid on the first one hundred thousand dollars
of any purse, and not on any amounts in excess thereof.

(ii) The owner of a West Virginia sire of an accredited
thoroughbred horse that earns a purse in any race at
a West Virginia meet will receive a bonus award
calculated at the end of the year as a percentage of the
fund dedicated to sire owners, which shall be fifteen
percent of the fund available for distribution in any one
year. The total amount available for the sire owners'
awards shall be distributed according to the ratio purses
earned by the progeny of accredited West Virginia
stallions in the races for a particular stallion to the total
purses earned by the progeny of all accredited West
Virginia stallions in the races. However, no sire owner
may receive from the fund dedicated to sire owners an
amount in excess of thirty-five percent of the accredited earnings for each sire. The bonus referred to in this subdivision shall only be paid on the first one hundred thousand dollars of any purse, and not on any amounts in excess thereof.

(iii) The owner of an accredited thoroughbred horse that earns a purse in any race at a West Virginia meet will receive a restricted purse supplement award calculated at the end of the year, which shall be twenty-five percent of the fund available for distribution in any one year, based on the ratio of the earnings in the races of a particular race horse to the total amount earned by all accredited race horses in the races during that year as a percentage of the fund dedicated to purse supplements. However, the owners may not receive from the fund dedicated to purse supplements an amount in excess of thirty-five percent of the total accredited earnings for each accredited race horse. The bonus referred to in this subdivision shall only be paid on the first one hundred thousand dollars of any purse, and not on any amounts in excess thereof.

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

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

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

(c) The remainder, if any, of the fund that is not available for distribution in the program provided for in this subsection in any one year is reserved for regular purses, marketing expenses and for capital improvements in the amounts and under the conditions provided in this subsection. Fifty percent of the remainder shall
be reserved for payments into the regular purse fund established in subsection (b), section nine of this article. Up to five hundred thousand dollars per year shall be available for: (1) Capital improvements at the eligible licensed horse racing tracks in the state; and (2) marketing and advertising programs above and beyond two hundred fifty thousand dollars for the eligible licensed horse racing tracks in the state: Provided, That moneys shall be expended for capital improvements or marketing and advertising purposes as described in this subsection only in accordance with a plan filed with and receiving the prior approval of the racing commission, and on a basis of fifty percent participation by the licensee and fifty percent participation by moneys from the fund, in the total cost of approved projects: Provided, however, That funds approved for one track may not be used at another track unless the first track ceases to operate or is viewed by the commission as unworthy of additional investment due to financial or ethical reasons.

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

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

(ii) From the first day of January, one thousand nine hundred eighty-five, to the thirty-first day of December, one thousand nine hundred eighty-five — one restricted race per seven racing days;

(iii) From the first day of January, one thousand nine hundred eighty-six, to the thirty-first day of December, one thousand nine hundred eighty-six — one restricted race per six racing days;

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

(v) From the first day of January, one thousand nine
hundred eighty-eight, to the thirty-first day of December, one thousand nine hundred eighty-eight — one restricted race per four racing days;

(vi) From the first day of January, one thousand nine hundred eighty-nine, to the thirty-first day of December, one thousand nine hundred eighty-nine — one restricted race per three racing days; and thereafter.

The restricted races established in this subsection shall be administered by a three-member committee consisting of: (A) The racing secretary; (B) a member appointed by the authorized representative of a majority of the owners and trainers at the thoroughbred track; and (C) a member appointed by a majority of the thoroughbred breeders. The purses shall be twenty percent larger than the purses for similar type races at each track. Restricted races shall be funded by each racing association from:

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

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

(e) No association or licensee qualifying for the alternate tax provision of subsection (b), section ten of this article is eligible for participation in any of the provisions of this section: Provided, That the provisions of this subsection shall not apply to a thoroughbred race track at which the licensee has participated in the West Virginia thoroughbred development fund for a period of more than four consecutive calendar years prior to the thirty-first day of December, one thousand nine hundred ninety-two.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Donald J. Kopp
Clerk of the House of Delegates

Nancy Bustetter
President of the Senate

Robert C. Atchison
Speaker of the House of Delegates

The within is approved this the 12th day of May, 1993.

Governor

J. Evan Cappadona