

HB 4429

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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

HOUSE BILL No. 4429

(By Delegates Manuel and Doyle)



Passed March 11, 1994

In Effect 90 Days From Passage

**ENROLLED**  
**H. B. 4429**

(By DELEGATES MANUEL AND DOYLE)

[Passed March 11, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact section twelve-b, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to televised racing; and earmarking one fourth of one percent of a televised racing day's pari-mutuel pool for the Race Track Employees' Pension Trust.

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

That section twelve-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.**

**§19-23-12b. Televised racing days; merging of pari-mutuel wagering pools.**

1 (a) For the purposes of this section:

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

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

15 (b) A licensee conducting not less than two hundred  
16 twenty live racing dates for each horse or dog race  
17 meeting may, with the prior approval of the state racing  
18 commission, contract with any legal wagering entity in  
19 any other state to receive telecasts and accept wagers  
20 on races conducted by the legal wagering entity:  
21 *Provided*, That at those thoroughbred racetracks  
22 participating in the West Virginia thoroughbred  
23 development fund authorized by section thirteen-b of  
24 this article, the licensee, in applying for racing dates,  
25 shall apply for not less than two hundred twenty live  
26 racing dates for each horse race meeting. If, thereafter,  
27 for reasons beyond the licensee's control, the licensee  
28 concludes that this number of racing days cannot be  
29 attained, the licensee may file a request with the racing  
30 commission to reduce the authorized live racing days.  
31 Upon receipt of the request the racing commission shall  
32 within seventy-two hours of the receipt of the request  
33 notify the licensee and the representative of a majority  
34 of the owners and trainers at the requesting track that  
35 such request has been received and that if no objection  
36 to the request is received within ten days of the  
37 notification the request will be approved. If an objection  
38 is received by the commission within the time limits, the  
39 commission shall establish a binding arbitration board.  
40 The board shall consist of one member appointed by the  
41 licensee, one member appointed by the representative of  
42 a majority of the owners and trainers at the racetrack  
43 and a third member to be selected by the two appointed  
44 members. In the event the two members cannot agree  
45 on the third member, each member shall submit two  
46 names to the racing commission and from those names  
47 the racing commission shall appoint the third member  
48 of the board. The board shall hear from all parties  
49 concerned and thereupon shall make recommendations  
50 to the racing commission on the required number of live  
51 racing days. The recommendations of the board are  
52 final. The telecasts may be received and wagers

53 accepted at any location authorized by the provisions of  
54 section twelve-a of this article. The contract must  
55 receive the approval of the representative of the  
56 majority of the owners and trainers who hold permits  
57 required by section two of this article at the receiving  
58 racetrack.

59 (c) The commission may allow the licensee to commin-  
60 gle its wagering pools with the wagering pools of the  
61 host racing association. If the pools are commingled, the  
62 wagering at the licensee's racetrack must be on  
63 tabulating equipment capable of issuing pari-mutuel  
64 tickets and be electronically linked with the equipment  
65 at the sending racetrack. Subject to the approval of the  
66 commission, the types of betting, licensee commissions  
67 and distribution of winnings on pari-mutuel pools of the  
68 sending licensee racetrack are those in effect at the  
69 licensee racetrack. Breakage for pari-mutuel pools on a  
70 televised racing day must be calculated in accordance  
71 with the law or rules governing the sending racetrack  
72 and must be distributed in a manner agreed to between  
73 the licensee and the sending racetrack.

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

79 (e) (1) From the licensee commissions authorized by  
80 subsection (c) of this section, the licensee shall pay one  
81 tenth of one percent of each commission into the general  
82 fund of the county, in which the racetrack is located and  
83 at which the wagering occurred and there is imposed  
84 and the licensee shall pay, for each televised racing day  
85 on which the total pari-mutuel pool exceeds one hundred  
86 thousand dollars, the greater of either: (i) The total of  
87 the daily license tax and the pari-mutuel pools tax  
88 required by section ten of this article; or (ii) a daily  
89 license tax of one thousand two hundred fifty dollars.  
90 For each televised racing day on which the total pari-  
91 mutuel pool is one hundred thousand dollars or less, the  
92 licensee shall pay a daily license tax of five hundred  
93 dollars plus an additional license tax of one hundred

94 dollars for each ten thousand dollars, or part thereof,  
95 that the pari-mutuel pool exceeds fifty thousand dollars,  
96 but does not exceed one hundred thousand dollars.  
97 Payments of the tax imposed by this section are subject  
98 to the requirements of subsection (e), section ten of this  
99 article.

100 (2) From the license commissions authorized by  
101 subsection (c) of this section, after payments are made  
102 in accordance with the provisions of subdivision (1) of  
103 this subsection, the licensee shall pay, for each televised  
104 racing day, one fourth of one percent of the total pari-  
105 mutuel pools for and on behalf of all employees of the  
106 licensed racing association by making a deposit into a  
107 special fund to be established by the racing commission  
108 and to be used for payments into the pension plan for  
109 all employees of the licensed racing association.

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

118 (g) The provisions of the "Federal Interstate Horse-  
119 racing Act of 1978", also known as Public Law 95-515,  
120 Section 3001-3007 of Title 15, U.S. Code, as amended,  
121 controls in determining the intent of this section.

122 (h) The handle from televised simulcast racing shall  
123 not be included in the calculation of "average daily  
124 handle" as it is calculated in section ten of this article  
125 to determine the alternative daily pari-mutuel pool tax.

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

*[Handwritten Signature]*  
Chairman Senate Committee

*Ernest C. Moore*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*David B. Jones*  
Clerk of the Senate

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

*Just Bondette*  
President of the Senate

*Paul Blum*  
Speaker of the House of Delegates

The within is disapproved this the 30<sup>th</sup> day of March, 1994.

*Gaston Capreol*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/24/94

Time 10:13am