WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

---

ENROLLED

HOUSE BILL No. H.29

(By Delegates Manuel and Doyle)

---

Passed March 11, 1994

In Effect 90 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, 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
"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 licensee's 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 commin-
gle 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 all employees of the licensed racing association by making a deposit into a special fund to be established by the racing commission and to be used for payments into the pension plan for all employees of the licensed racing association.

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

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 30th day of , 1994.

Governor