WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

ENROLLED

HOUSE BILL No. 2595

Pettit, Doyle, Manuel, Seacrist and Faircloth

(By Delegate __________________________
Seacrist and Faircloth____________________)

Passed ________________ April 12, ____________ 1997

In Effect __________________ Ninety Days From _______ Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2595

(BY DELEGATES PETTIT, DOYLE, MANUEL, SEACRIST AND FAIRCLOTH)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact sections twelve-b, twelve-c and thirteen, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to simulcasting of horse and dog races and pari-mutuel wagering on simulcast races; providing for broadcast of televised horse and dog races between racetracks within the state of West Virginia; providing for live racing dates; providing for a negotiated signal transmission fee as consideration for a host racing association's televised racing services; providing for payments into racetrack employees' pension funds, the thoroughbred development fund and purse funds;" disposition of funds for payment of outstanding and unredeemed pari-mutuel tickets; publication of notice; irredeemable tickets; stake races for dog tracks.

Be it enacted by the Legislature of West Virginia:

That sections twelve-b, twelve-c and thirteen, 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:
§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 other racetracks in this state or at racetracks outside of this 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 governmental entity, conducts the horse or dog race upon which wagers are placed.

(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 this state or in any other governmental jurisdiction to receive telecasts and accept wagers on races conducted by the legal wagering entity: Provided, That at those thoroughbred racetracks the licensee, in applying for racing dates, shall apply for not less than two hundred ten live racing dates for each horse race meeting: Provided, however, That at those thoroughbred racetracks that have 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 licensee may apply for not less than one hundred fifty-nine live racing dates during the calendar year of one thousand nine hundred ninety-seven. If, thereafter, for reasons beyond the licensee’s control, related to adverse weather conditions, unforeseen casualty occurrences or a shortage of thoroughbred horses eligible to compete for purses, 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 and the representative of the majority of the mutuel clerks 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: Provided, That the commission shall give consideration to whether there existed available unscheduled potential live racing dates following the adverse weather or casualty and prior to the end of the race meeting which could be used as new live racing dates in order to maintain the full live racing schedule previously approved by the racing commission. If an objection is received by the commission within the time limits, the commission shall, within thirty days of receipt of such objection, set a hearing on the question of reducing racing days, which hearing shall be conducted at a convenient place in the county in which the requesting racetrack is located. The commission shall hear from all parties concerned and, based upon testimony and documentary evidence presented at the hearing, shall determine the required number of live racing days: Provided, That the commission shall not reduce the number of live racing days below one hundred eighty-five days for a horse race meeting unless the licensee requesting such reduction has: (i) filed with the commission a current financial statement, which shall be subject to independent audit; and (ii) met the burden of proving that just cause exists for such requested reduction in live racing days. 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 thoroughbred racetrack.

(c) The commission may allow the licensee to commingle 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. For the televised racing services it provides, the host racing association shall receive a fee to be paid by the receiving licensee racetrack which shall be in an amount to be agreed upon by the receiving licensee racetrack and the host racing association.

(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. The calculation of the total pari-mutuel pool for purposes of this subsection shall include only one-half of all wagers placed at a licensed racetrack in this
(2) From the licensee 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.

(3) From the licensee commissions authorized by subsection (c) of this section, after payments are made in accordance with the provisions of subdivisions (1) and (2) of this subsection, thoroughbred licensees shall pay, one-half percent of net simulcast income and for each televised racing day on or after the first day of July, one thousand nine hundred ninety-seven, an additional five and one-half percent of net simulcast income into the West Virginia thoroughbred development fund established by the racing commission according to section thirteen-b of this article: Provided, That no licensee qualifying for the alternate tax provisions of subsection (b), section ten of this article shall be required to make the payments unless 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. For the purposes of this section, the term “net simulcast income” means the total commission deducted each day by the licensee from the pari-mutuel pools on simulcast horse or dog races, less direct simulcast expenses, including, but not limited to, the cost of simulcast signals, telecommunication costs and decoder costs.

(f) After deducting the tax and other payments required by subsection (e) of this section, the amount
required to be paid under the terms of the contract with
the host racing association 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. After deducting
the tax and other payments required by subsection (e) of
this section, dog racetracks shall pay an amount equal to
two-tenths of one percent of the daily simulcast
parimutuel pool to the "West Virginia Racing
Commission Special Account-West Virginia Greyhound
Breeding Development Fund".

(g) The provisions of the "Federal Interstate
Horseracing 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.

§19-23-12c. Interstate simulcasts by licensed racetracks.

(a) Any licensed racing association may be
authorized by the commission to transmit broadcasts of
races conducted at its racetrack to legal wagering entities
located outside this state, which legal wagering entities
located outside this state shall not be subject to the
provisions of subsection (e) of section twelve-b of this
article: Provided, That as consideration for the televised
racing services it provides, the host racing association shall
receive a signal transmission fee to be paid by the
receiving legal wagering entity which shall be in an
amount agreed upon by the receiving legal wagering
entity and the host racing association. All broadcasts of
horse races shall be in accordance with all of the
provisions of the "Federal Interstate Horseracing Act of
1978", also known as Public Law 95-515, section 3001-
3007 of Title 15 of the United States Code.

(b) One percent of the total signal transmission fee
provided in subsection (a) of this section shall be paid into
a special fund to be established by the racing commission
for and on behalf of all employees of the licensed racing
association to be used for payments into the pension plan
for all employees of the licensed racing association, and
any thoroughbred horse racetrack which 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. Seven and one-half percent of the signal transmission fee shall be paid into the West Virginia thoroughbred development fund established by the racing commission according to section thirteen-b of this article. After deducting (i) the amounts required to be placed into the pension plan for all employees of the licensed racing association under this section, (ii) the amounts, if any, required to be paid into the West Virginia thoroughbred development fund under this section. The racing association may deduct from the signal transmission fee direct costs necessary to send a live audio and visual signal of horse races or dog races from any racetrack licensed under the provisions of section one of this article to any legal wagering entities outside this state for the purpose of pari-mutuel wagering, which direct costs shall include the cost of satellite equipment necessary to transmit the signal, a satellite operator and the satellite time necessary to broadcast the signal and the cost of telecommunication and facsimile services needed to communicate necessary information to all legal wagering entities for the purpose of pari-mutuel wagering. After the deductions provided for in this subsection are made, thoroughbred horseracing associations shall make a deposit equal to fifty percent of the remainder into the purse fund established under the provisions of subdivision (b), subsection (1), section nine of this article.

§19-23-13. Disposition of funds for payment of outstanding and unredeemed pari-mutuel tickets; publication of notice; irredeemable tickets; stake races for dog tracks.

(a) All moneys held by any licensee for the payment of outstanding and unredeemed pari-mutuel tickets, if not claimed within ninety days after the close of a horse or dog race meeting or the televised racing day, as the case may be, in connection with which the tickets were issued, shall be turned over by the licensee to the racing commission within fifteen days after the expiration of
such ninety-day period, and the licensee shall give such
information as the racing commission may require
concerning such outstanding and unredeemed tickets. All
such moneys shall be deposited by the racing commission
in a banking institution of its choice in a special account
to be known as “West Virginia Racing Commission
Special Account — Unredeemed Pari-Mutuel Tickets”.
Notice of the amount, date and place of such deposit shall
be given by the racing commission, in writing, to the state
treasurer. The racing commission shall then cause to be
published a notice to the holders of such outstanding and
unredeemed pari-mutuel tickets, notifying them to present
such tickets for payment at the principal office of the
racing commission within ninety days from the date of the
publication of such notice. Such notice shall be published
within fifteen days following the receipt of said moneys
by the commission from the licensee as a Class I legal
advertisement in compliance with the provisions of article
three, chapter fifty-nine of this code, and the publication
area for such publication shall be the county in which
such horse or dog race meeting was held and the county
in which the televised racing day wagering conducted in
this state.

(b) Any such pari-mutuel tickets that shall not be
presented for payment within ninety days from the date of
the publication of the notice shall thereafter be
irredeemable, and the moneys theretofore held for the
redemption of such pari-mutuel tickets shall become the
property of the racing commission and shall be expended
as provided in this subsection. The racing commission
shall maintain separate accounts for each licensee and
shall record therein the moneys turned over by such
licensee and the amount expended at such licensee’s track
for the purposes set forth in this subsection. The moneys
in the “West Virginia Racing Commission Special
Account — Unredeemed Pari-Mutuel Tickets” shall be
expended as follows:

(1) To the owner of the winning horse in any horse
race at a horse race meeting held or conducted by any
licensee: Provided, That the owner of such horse is at the
time of such horse race a bona fide resident of this state, a
The commission may require proof that the owner was, at the time of the race, a bona fide resident of this state. Upon proof by the owner that he filed a personal income tax return in this state for the previous two years and that he owned real or personal property in this state and paid taxes in this state on said property for the previous two years, he shall be presumed to be a bona fide resident of this state; and

(2) To the breeder (that is, the owner of the mare) of the winning horse in any horse race at a horse race meeting held or conducted by any licensee: Provided, That the mare foaled in this state, a sum equal to ten percent of the purse won by such horse; and

(3) To the owner of the stallion which sired the winning horse in any horse race at a horse race meeting held or conducted by any licensee: Provided, That the mare which foaled such winning horse was served by a stallion standing and registered in this state, a sum equal to ten percent of the purse won by such horse; and

(4) To those horse racing licensees not participating in the thoroughbred development fund authorized in section thirteen-b of this article the unexpended balance of such licensee’s account not expended as provided in subdivisions (1), (2) and (3) of this subsection: Provided, That all moneys distributed under this subdivision shall be expended solely for capital improvements at the licensee’s track: Provided, however, That such capital improvements must be approved, in writing, by the West Virginia racing commission before funds are expended by the licensee for that capital improvement; and

(5) When the moneys in the special account, known as the “West Virginia Racing Commission Special Account — Unredeemed Pari-Mutuel Tickets” will more than satisfy the requirements of subdivisions (1), (2), (3) and (4) of this subsection, the West Virginia racing commission shall have the authority to expend the excess moneys from unredeemed horse racing pari-mutuel tickets as purse money in any race conditioned exclusively for West Virginia bred or sired horses, and to expend the
Provided, That during the fiscal year beginning on the first day of July one thousand nine hundred ninety-six, but not thereafter, and subject to availability of funds, the commission shall, after the requirements of subdivisions (1), (2), (3) and (4) of this subsection have been satisfied, transfer three hundred thousand dollars of such excess moneys into a separate account to be used for promotional activities and purses for stakes races for the West Virginia thoroughbred breeders classics, which shall give equal consideration to all horses qualifying under the West Virginia breeders program for each stake race, based solely on the horses' sex, age and earnings: Provided however, That beginning with the fiscal year beginning on the first day of July, one thousand nine hundred ninety-seven, and subject to the availability of funds, the commission shall, after the requirements of subdivisions (1), (2), (3) and (4) of this subsection have been satisfied:

(i) Transfer annually two hundred thousand dollars to the "West Virginia Racing Commission Special Account - West Virginia Greyhound Breeding Development Fund"; and

(ii) Transfer annually two hundred thousand dollars into a separate account to be used for stakes races for West Virginia bred greyhounds at dog racetracks.

(6) Notwithstanding any limitations on use of funds pursuant to subdivision six of subsection c, section ten, article twenty-two-a, chapter twenty-nine of this code to the contrary, beginning on the first day of July, one thousand nine hundred ninety-seven, those funds deposited into the separate account previously dedicated solely to the West Virginia thoroughbred breeders classics shall thereafter be allocated as follows:

(A) For each fiscal year, the first eight hundred thousand dollars deposited in the separate account, together with any balance remaining in the separate account on the thirtieth day of June one thousand nine hundred ninety-seven, shall be used by the commission
for promotional activities, advertising, administrative costs and purses for the West Virginia thoroughbred breeders classics, which shall give equal consideration to all horses qualifying under the West Virginia breeders program for each stake race, based solely on the horses' sex, age and earnings.

(B) For each fiscal year, the next two hundred thousand dollars deposited into the separate account shall be used by the commission for promotional activities and purses for open stake races for a race event to be known as the West Virginia derby to be held at a thoroughbred racetrack which does not participate in the West Virginia thoroughbred development fund.

(C) For each fiscal year, once the amounts provided in paragraphs A and B of this subdivision have been deposited into the separate account for use in connection with the West Virginia thoroughbred breeders classics and the West Virginia derby, the commission shall return to each racetrack all additional amounts deposited which originate during that fiscal year from each respective racetrack pursuant to subdivision six of subsection c, section ten, article twenty-two-a, chapter twenty-nine of this code, which returned excess funds shall be used as follows:

(i) For each dog racetrack, one-half of the returned excess funds shall be used for capital improvements at the racetrack and one-half of the returned excess funds shall be deposited into the "West Virginia Racing Commission Special Account - West Virginia Greyhound Breeding Development Fund".

(ii) At those thoroughbred racetracks that have 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, one-half of the returned excess funds shall be used for capital improvements at the licensee’s racetrack and one-half of the returned excess funds shall be equally divided between the West Virginia thoroughbred breeders classics and the West Virginia thoroughbred development fund.
(iii) At those thoroughbred horse racetracks which do not participate in the West Virginia thoroughbred development fund, one-half of the returned excess funds shall be used for capital improvements at the licensee’s racetrack and one-half of the returned excess funds shall be used for purses for the open stakes race event known as the West Virginia derby as provided in paragraph (B) of this subdivision.

(iv) All expenditures which are funded under this subdivision six must be approved in writing by the West Virginia racing commission before the funds are expended for any of the purposes authorized by this subdivision.

The commission shall submit to the legislative auditor a quarterly report and accounting of the income, expenditures and unobligated balance in the special account created by this section known as the “West Virginia Racing Commission Special Account — Unredeemed Pari-Mutuel Tickets”.

(c) Nothing contained in this article shall prohibit one person from qualifying for all or more than one of the aforesaid awards or for awards under section thirteen-b of this article.

(d) The cost of publication of the notice provided for in this section shall be paid from the funds in the hands of the state treasurer collected from the pari-mutuel pools' tax provided for in section ten of this article, when not otherwise provided in the budget; but no such costs shall be paid unless an itemized account thereof, under oath, be first filed with the state auditor.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved, this the ___ day of ___ , 1997.

[Signature]
Governor