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STATE HOUSE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



# ENROLLED

## House Bill No. 4487

(By Delegates L. White, Doyle, Manuel and Faircloth)



Passed March 11, 2000

In Effect Ninety Days from Passage

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DEPARTMENT OF REVENUE  
STATE OF WEST VIRGINIA

## ENROLLED

### H. B. 4487

(BY DELEGATES L. WHITE, DOYLE, MANUEL AND FAIRCLOTH)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section twelve-c, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said chapter by adding thereto a new article, designated article twenty-four, all relating to allowing a thoroughbred racetrack and its horsemen's organization to use a portion of export simulcast proceeds for capital improvements at the track; and enacting the interstate compact on licensure of participants in live horse racing with pari-mutuel wagering.

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

That section twelve-c, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said chapter be further amended by adding thereto a new article, designated article twenty-four, all to read as follows:

#### **ARTICLE 23. HORSE AND DOG RACING.**

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

1 (a) Any licensed racing association may be authorized by  
2 the commission to transmit broadcasts of races conducted at its  
3 racetrack to legal wagering entities located outside this state,  
4 which legal wagering entities located outside this state shall not  
5 be subject to the provisions of subsection (e), section twelve-b  
6 of this article: *Provided*, That as consideration for the televised  
7 racing services it provides, the host racing association shall  
8 receive a signal transmission fee to be paid by the receiving  
9 legal wagering entity which shall be in an amount agreed upon  
10 by the receiving legal wagering entity and the host racing  
11 association. All broadcasts of horseraces shall be in accordance  
12 with all of the provisions of the "Federal Interstate Horseracing  
13 Act of 1978," also known as Public Law 95-515, Section 3001-  
14 3007 of Title 15 of the United States Code.

15 (b) One percent of the total signal transmission fee provided  
16 in subsection (a) of this section shall be paid into a special fund  
17 to be established by the racing commission for and on behalf of  
18 all employees of the licensed racing association to be used for  
19 payments into the pension plan for all employees of the licensed  
20 racing association, and any thoroughbred horse racetrack which  
21 has participated in the West Virginia thoroughbred develop-  
22 ment fund for a period of more than four consecutive calendar  
23 years prior to the thirty-first day of December, one thousand  
24 nine hundred ninety-two shall pay seven and one-half percent  
25 of the signal transmission fee into the West Virginia thorough-  
26 bred development fund established by the racing commission  
27 according to section thirteen-b of this article. After deducting:  
28 (i) The amounts required to be placed into the pension plan for  
29 all employees of the licensed racing association under this  
30 section; (ii) the amounts, if any, required to be paid into the  
31 West Virginia thoroughbred development fund under this  
32 section; and (iii) the direct costs necessary to send a live audio  
33 and visual signal of horse races or dog races from any racetrack  
34 licensed under the provisions of section one of this article to  
35 any legal wagering entities outside this state for the purpose of

36 pari-mutuel wagering, which direct costs shall include the cost  
 37 of satellite equipment necessary to transmit the signal, a  
 38 satellite operator and the satellite time necessary to broadcast  
 39 the signal and the cost of telecommunication and facsimile  
 40 services needed to communicate necessary information to all  
 41 legal wagering entities for the purpose of pari-mutuel wagering,  
 42 thoroughbred horseracing associations shall make a deposit  
 43 equal to fifty percent of the remainder into the purse fund  
 44 established under the provisions of subdivision (1), subsection  
 45 (b), section nine of this article: *Provided*, That the funds  
 46 deposited in the purse fund pursuant to this section may be used  
 47 for the payment of regular purses or, upon agreement between  
 48 the horse racing association and the representative of the  
 49 majority of owners and trainers at a particular thoroughbred  
 50 racetrack, may be used for capital improvements supporting  
 51 simulcast operations.

**ARTICLE 24. INTERSTATE COMPACT ON LICENSURE OF PARTICIPANTS IN LIVE HORSE RACING WITH PARI-MUTUEL WAGERING.**

**§19-24-1. Interstate compact on licensure of participants in live horse racing with pari-mutuel wagering; form of compact.**

1 The interstate compact on licensure of participants in live  
 2 horse racing with pari-mutuel wagering is enacted into law and  
 3 entered into with all other jurisdictions legally joining in the  
 4 compact in the form substantially as follows:

**ARTICLE I. PURPOSES.**

**§1. Purposes.**

1 The purposes of this compact are to:  
 2 1. Establish uniform requirements among the party states  
 3 for the licensing of participants in live horse racing with

4 pari-mutuel wagering, and ensure that all the participants who  
5 are licensed pursuant to this compact meet a uniform minimum  
6 standard of honesty and integrity.

7 2. Facilitate the growth of the horse racing industry in each  
8 party state and nationwide by simplifying the process for  
9 licensing participants in live racing, and reduce the duplicative  
10 and costly process of separate licensing by the regulatory  
11 agency in each state that conducts live horse racing with  
12 pari-mutuel wagering.

13 3. Authorize the West Virginia Racing Commission to  
14 participate in this compact.

15 4. Provide for participation in this compact by officials of  
16 the party states, and permit those officials, through the compact  
17 committee established by this compact, to enter into contracts  
18 with governmental agencies and nongovernmental persons to  
19 carry out the purposes of this compact.

20 5. Establish the compact committee created by this compact  
21 as an interstate governmental entity duly authorized to request  
22 and receive criminal history record information from the  
23 Federal Bureau of Investigation and other state and local law-  
24 enforcement agencies.

## ARTICLE II. DEFINITIONS.

### §2. Definitions.

1 “Compact committee” means the organization of officials  
2 from the party states that is authorized and empowered by this  
3 compact to carry out the purposes of this compact.

4 “Official” means the appointed, elected, designated or  
5 otherwise duly selected member of a racing commission or the  
6 equivalent of a racing commission in a party state who repre-  
7 sents that party state as a member of the compact committee.

8       “Participants in live racing” means participants in live horse  
9 racing with pari-mutuel wagering in the party states.

10       “Party state” means each state that has enacted this com-  
11 pact.

12       “State” means each of the several states of the United  
13 States, the District of Columbia, the Commonwealth of Puerto  
14 Rico and each territory or possession of the United States.

#### **ARTICLE III. ENTRY INTO FORCE, ELIGIBLE PARTIES AND WITH- DRAWAL.**

##### **§3. Entry into force.**

1       This compact shall come into force when enacted by any  
2 four states. Thereafter, this compact shall become effective as  
3 to any other state upon: (i) That state’s enactment of this  
4 compact; and (ii) the affirmative vote of a majority of the  
5 officials on the compact committee as provided in section eight.

##### **§4. States eligible to join compact.**

1       Any state that has adopted or authorized horse racing with  
2 pari-mutuel wagering is eligible to become party to this  
3 compact.

##### **§5. Withdrawal from compact and impact thereof on force and effect of compact.**

1       Any party state may withdraw from this compact by  
2 enacting a statute repealing this compact, but the withdrawal  
3 does not become effective until the head of the executive  
4 branch of the withdrawing state has given notice in writing of  
5 the withdrawal to the head of the executive branch of all other  
6 party states. If as a result of withdrawals participation in this  
7 compact decreases to less than three party states, this compact  
8 is no longer in force and effect unless and until there are at least  
9 three or more party states again participating in this compact.

**ARTICLE IV. COMPACT COMMITTEE.****§6. Compact committee established.**

1       There is hereby created an interstate governmental entity to  
2 be known as the “compact committee,” which shall be com-  
3 prised of one official from the racing commission or its  
4 equivalent in each party state who shall be appointed, serve and  
5 is subject to removal in accordance with the laws of the party  
6 state he or she represents. Pursuant to the laws of his or her  
7 party state, each official shall have the assistance of his or her  
8 state’s racing commission or the equivalent of a racing commis-  
9 sion in considering issues related to licensing of participants in  
10 live racing and in fulfilling his or her responsibilities as the  
11 representative from his or her state to the compact committee.  
12 If an official is unable to perform any duty in connection with  
13 the powers and duties of the compact committee, the racing  
14 commission or equivalent from his or her state shall designate  
15 another of its members as an alternate who shall serve in his or  
16 her place and represent the party state as its official on the  
17 compact committee until that racing commission or equivalent  
18 determines that the original representative official is able once  
19 again to perform his or her duties as that party state’s represen-  
20 tative official on the compact committee. The designation of an  
21 alternate shall be communicated by the affected state’s racing  
22 commission or equivalent to the compact committee as the  
23 committee’s bylaws may provide.

**§7. Powers and duties of compact committee.**

1       In order to carry out the purposes of this compact, the  
2 compact committee is hereby granted the power and duty to:

3       1. Determine which categories of participants in live racing,  
4 including, but not limited to, owners, trainers, jockeys, grooms,  
5 mutuel clerks, racing officials, veterinarians and farriers, should  
6 be licensed by the committee, and establish the requirements

7 for the initial licensure of applicants in each such category, the  
8 term of the license for each category, and the requirements for  
9 renewal of licenses in each category: *Provided*, That with  
10 regard to requests for criminal history record information on  
11 each applicant for a license, and with regard to the effect of a  
12 criminal record on the issuance or renewal of a license, the  
13 compact committee shall determine for each category of  
14 participants in live racing which licensure requirements for that  
15 category are, in its judgment, the most restrictive licensure  
16 requirements of any party state for that category and shall adopt  
17 licensure requirements for that category that are, in its judg-  
18 ment, comparable to those most restrictive requirements.

19 2. Investigate applicants for a license from the compact  
20 committee and, as permitted by federal and state law, gather  
21 information on the applicants, including criminal history record  
22 information from the Federal Bureau of Investigation and  
23 relevant state and local law-enforcement agencies, and, where  
24 appropriate, from the Royal Canadian Mounted Police and law-  
25 enforcement agencies of other countries, necessary to determine  
26 whether a license should be issued under the licensure require-  
27 ments established by the committee as provided in paragraph  
28 one above. Only officials on, and employees of, the compact  
29 committee may receive and review the criminal history record  
30 information, and those officials and employees may use that  
31 information only for the purposes of this compact. No such  
32 official or employee may disclose or disseminate the informa-  
33 tion to any person or entity other than another official on or  
34 employee of the compact committee. The fingerprints of each  
35 applicant for a license from the compact committee shall be  
36 taken by the compact committee, its employees or its designee  
37 and, pursuant to Public Law 92-544 or Public Law 100-413,  
38 shall be forwarded to a state identification bureau, or to the  
39 Association of Racing Commissioners, International, an  
40 association of state officials regulating pari-mutuel wagering  
41 designated by the Attorney General of the United States, for



42 submission to the Federal Bureau of Investigation for a criminal  
43 history record check. The fingerprints may be submitted on a  
44 fingerprint card or by electronic or other means authorized by  
45 the Federal Bureau of Investigation or other receiving law-  
46 enforcement agency.

47 3. Issue licenses to, and renew the licenses of, participants  
48 in live racing listed in paragraph one of this section who are  
49 found by the committee to have met the licensure and renewal  
50 requirements established by the committee. The compact  
51 committee does not have the power or authority to deny a  
52 license. If it determines that an applicant will not be eligible for  
53 the issuance or renewal of a compact committee license, the  
54 compact committee shall notify the applicant that it will not be  
55 able to process his or her application further. The notification  
56 does not constitute and shall not be considered to be the denial  
57 of a license. Any such applicant has the right to present  
58 additional evidence to, and to be heard by, the compact commit-  
59 tee, but the final decision on issuance or renewal of the license  
60 shall be made by the compact committee using the requirements  
61 established pursuant to paragraph one of this section.

62 4. Enter into contracts or agreements with governmental  
63 agencies and with nongovernmental persons to provide personal  
64 services for its activities and other services as may be necessary  
65 to effectuate the purposes of this compact.

66 5. Create, appoint and abolish those offices, employments  
67 and positions, including an executive director, as it considers  
68 necessary for the purposes of this compact, prescribe their  
69 powers, duties and qualifications, hire persons to fill those  
70 offices, employments and positions, and provide for the  
71 removal, term, tenure, compensation, fringe benefits, retirement  
72 benefits and other conditions of employment of its officers,  
73 employees and other positions.

74       6. Borrow, accept or contract for the services of personnel  
75 from any state, the United States, any other governmental  
76 agency or from any person, firm, association, corporation or  
77 other entity.

78       7. Acquire, hold and dispose of real and personal property  
79 by gift, purchase, lease, license or in other similar manner, in  
80 furtherance of the purposes of this compact.

81       8. Charge a fee to each applicant for an initial license or  
82 renewal of a license.

83       9. Receive other funds through gifts, grants and appropria-  
84 tions.

#### **§8. Voting requirements.**

1       A. Each official shall be entitled to one vote on the compact  
2 committee.

3       B. All action taken by the compact committee with regard  
4 to the addition of party states as provided in section three, the  
5 licensure of participants in live racing, and the receipt and  
6 disbursement of funds requires a majority vote of the total  
7 number of officials, or their alternates, on the committee. All  
8 other action by the compact committee requires a majority vote  
9 of those officials, or their alternates, present and voting.

10      C. No action of the compact committee may be taken unless  
11 a quorum is present. A majority of the officials, or their  
12 alternates, on the compact committee constitutes a quorum.

#### **§9. Administration and management.**

1       A. The compact committee shall elect annually from among  
2 its members a chairman, a vice-chairman and a secre-  
3 tary/treasurer.

4       B. The compact committee shall adopt bylaws for the  
5 conduct of its business by a two-thirds vote of the total number  
6 of officials, or their alternates, on the committee at that time  
7 and shall have the power by the same vote to amend and rescind  
8 these bylaws. The committee shall publish its bylaws in  
9 convenient form and shall file a copy of the bylaws and a copy  
10 of any amendments to the bylaws with the secretary of state or  
11 equivalent agency of each of the party states.

12       C. The compact committee may delegate the day-to-day  
13 management and administration of its duties and responsibili-  
14 ties to an executive director and his or her support staff.

15       D. Employees of the compact committee shall be consid-  
16 ered governmental employees.

**§10. Immunity from liability for performance of official responsi-  
bilities and duties.**

1       No official of a party state or employee of the compact  
2 committee may be held personally liable for any good faith act  
3 or omission that occurs during the performance and within the  
4 scope of his or her responsibilities and duties under this  
5 compact.

**ARTICLE V. RIGHTS AND RESPONSIBILITIES OF EACH PARTY STATE.**

**§11. Rights and responsibilities of each party state.**

1       A. By enacting this compact, each party state:

2       1. Agrees: (i) To accept the decisions of the compact  
3 committee regarding the issuance of compact committee  
4 licenses to participants in live racing pursuant to the commit-  
5 tee's licensure requirements; and (ii) to reimburse or otherwise  
6 pay the expenses of its official representative on the compact  
7 committee or his or her alternate.

8       2. Agrees not to treat a notification to an applicant by the  
9 compact committee under paragraph three of section seven that  
10 the compact committee will not be able to process his or her  
11 application further as the denial of a license, or to penalize such  
12 an applicant in any other way based solely on such a decision  
13 by the compact committee.

14       3. Reserves the right: (i) To charge a fee for the use of a  
15 compact committee license in that state; (ii) to apply its own  
16 standards in determining whether, on the facts of a particular  
17 case, a compact committee license should be suspended or  
18 revoked; (iii) to apply its own standards in determining  
19 licensure eligibility, under the laws of that party state, for  
20 categories of participants in live racing that the compact  
21 committee determines not to license and for individual partici-  
22 pants in live racing who do not meet the licensure requirements  
23 of the compact committee; and (iv) to establish its own  
24 licensure standards for the licensure of nonracing employees at  
25 horse racetracks and employees at separate satellite wagering  
26 facilities. Any party state that suspends or revokes a compact  
27 committee license shall, through its racing commission or the  
28 equivalent thereof or otherwise, promptly notify the compact  
29 committee of that suspension or revocation.

30       B. No party state may be held liable for the debts or other  
31 financial obligations incurred by the compact committee.

#### **ARTICLE VI. CONSTRUCTION AND SEVERABILITY.**

##### **§12. Construction and severability.**

1       This compact shall be liberally construed so as to effectuate  
2 its purposes. The provisions of this compact shall be severable,  
3 and, if any phrase, clause, sentence or provision of this compact  
4 is declared to be contrary to the Constitution of the United  
5 States or of any party state, or the applicability of this compact  
6 to any government, agency, person or circumstance is held

7 invalid, the validity of the remainder of this compact and the  
8 applicability thereof to any government, agency, person or  
9 circumstance shall not be affected thereby. If all or some  
10 portion of this compact is held to be contrary to the constitution  
11 of any party state, the compact shall remain in full force and  
12 effect as to the remaining party states and in full force and  
13 effect as to the state affected as to all severable matters.

**§19-24-2. Compact Committee members.**

1 The governor shall appoint one official to represent West  
2 Virginia on the compact committee for a term of four years. No  
3 official may serve more than three consecutive terms. A  
4 vacancy shall be filled by the governor for the unexpired term.

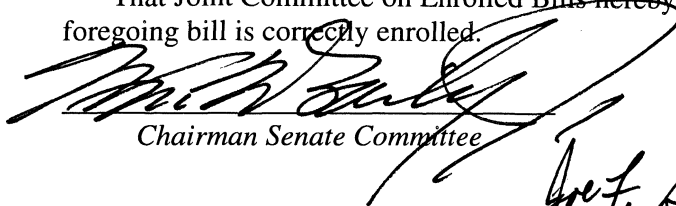
**§19-24-3. Cooperation of departments, agencies and officers.**

1 All departments, agencies and officers of the state and its  
2 political subdivisions are authorized to cooperate with the  
3 compact committee in furtherance of any of its activities  
4 pursuant to the compact.

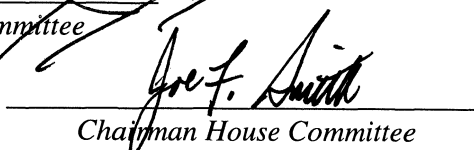
**§19-24-4. Racing commission powers preserved.**

1 Nothing in this article diminishes or limits the powers and  
2 responsibilities of the racing commission established article  
3 twenty-three of this chapter, or invalidates any action of the  
4 racing commission previously taken, including without limita-  
5 tion any rule promulgated by the commission.

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



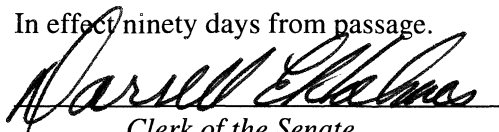
Chairman Senate Committee



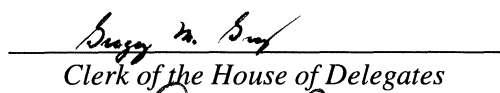
Chairman House Committee

Originating in the House.

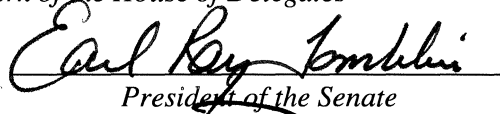
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

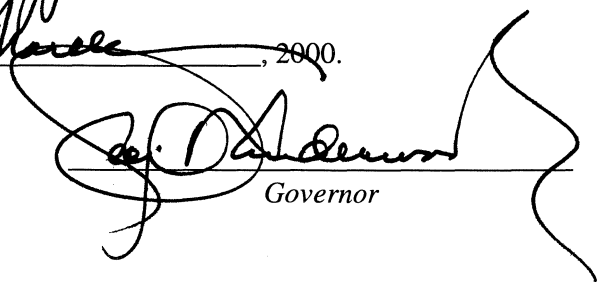


President of the Senate



Speaker of the House of Delegates

The within approved this the 28th  
day of March, 2000.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/00

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