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
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.
(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), 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 horseraces 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 shall pay seven and one-half percent of the signal transmission fee 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; and (iii) the 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,
thoroughbred horseracing associations 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: Provided, That the funds
deposited in the purse fund pursuant to this section may be used
for the payment of regular purses or, upon agreement between
the horse racing association and the representative of the
majority of owners and trainers at a particular thoroughbred
racetrack, may be used for capital improvements supporting
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.

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

ARTICLE I. PURPOSES.

§1. Purposes.

The purposes of this compact are to:

1. Establish uniform requirements among the party states for the licensing of participants in live horse racing with
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pari-mutuel wagering, and ensure that all the participants who
are licensed pursuant to this compact meet a uniform minimum
standard of honesty and integrity.

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

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

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

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

ARTICLE II. DEFINITIONS.

§2. Definitions.

"Compact committee" means the organization of officials
from the party states that is authorized and empowered by this
compact to carry out the purposes of this compact.

"Official" means the appointed, elected, designated or
otherwise duly selected member of a racing commission or the
equivalent of a racing commission in a party state who repre-
sents that party state as a member of the compact committee.
“Participants in live racing” means participants in live horse racing with pari-mutuel wagering in the party states.

“Party state” means each state that has enacted this compact.

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

ARTICLE III. ENTRY INTO FORCE, ELIGIBLE PARTIES AND WITHDRAWAL.

§3. Entry into force.

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

§4. States eligible to join compact.

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

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

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

§6. Compact committee established.

There is hereby created an interstate governmental entity to be known as the "compact committee," which shall be comprised of one official from the racing commission or its equivalent in each party state who shall be appointed, serve and is subject to removal in accordance with the laws of the party state he or she represents. Pursuant to the laws of his or her party state, each official shall have the assistance of his or her state’s racing commission or the equivalent of a racing commission in considering issues related to licensing of participants in live racing and in fulfilling his or her responsibilities as the representative from his or her state to the compact committee. If an official is unable to perform any duty in connection with the powers and duties of the compact committee, the racing commission or equivalent from his or her state shall designate another of its members as an alternate who shall serve in his or her place and represent the party state as its official on the compact committee until that racing commission or equivalent determines that the original representative official is able once again to perform his or her duties as that party state’s representative official on the compact committee. The designation of an alternate shall be communicated by the affected state’s racing commission or equivalent to the compact committee as the committee’s bylaws may provide.

§7. Powers and duties of compact committee.

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

1. Determine which categories of participants in live racing, including, but not limited to, owners, trainers, jockeys, grooms, mutuel clerks, racing officials, veterinarians and farriers, should be licensed by the committee, and establish the requirements
for the initial licensure of applicants in each such category, the
term of the license for each category, and the requirements for
renewal of licenses in each category: Provided, That with
regard to requests for criminal history record information on
each applicant for a license, and with regard to the effect of a
criminal record on the issuance or renewal of a license, the
compact committee shall determine for each category of
participants in live racing which licensure requirements for that
category are, in its judgment, the most restrictive licensure
requirements of any party state for that category and shall adopt
licensure requirements for that category that are, in its judg-
ment, comparable to those most restrictive requirements.

2. Investigate applicants for a license from the compact
committee and, as permitted by federal and state law, gather
information on the applicants, including criminal history record
information from the Federal Bureau of Investigation and
relevant state and local law-enforcement agencies, and, where
appropriate, from the Royal Canadian Mounted Police and law-
enforcement agencies of other countries, necessary to determine
whether a license should be issued under the licensure require-
ments established by the committee as provided in paragraph
one above. Only officials on, and employees of, the compact
committee may receive and review the criminal history record
information, and those officials and employees may use that
information only for the purposes of this compact. No such
official or employee may disclose or disseminate the informa-
tion to any person or entity other than another official on or
employee of the compact committee. The fingerprints of each
applicant for a license from the compact committee shall be
taken by the compact committee, its employees or its designee
and, pursuant to Public Law 92-544 or Public Law 100-413,
shall be forwarded to a state identification bureau, or to the
Association of Racing Commissioners, International, an
association of state officials regulating pari-mutuel wagering
designated by the Attorney General of the United States, for
submission to the Federal Bureau of Investigation for a criminal
history record check. The fingerprints may be submitted on a
fingerprint card or by electronic or other means authorized by
the Federal Bureau of Investigation or other receiving law-
enforcement agency.

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

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

5. Create, appoint and abolish those offices, employments
and positions, including an executive director, as it considers
necessary for the purposes of this compact, prescribe their
powers, duties and qualifications, hire persons to fill those
offices, employments and positions, and provide for the
removal, term, tenure, compensation, fringe benefits, retirement
benefits and other conditions of employment of its officers,
employees and other positions.
6. Borrow, accept or contract for the services of personnel from any state, the United States, any other governmental agency or from any person, firm, association, corporation or other entity.

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

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

9. Receive other funds through gifts, grants and appropriations.

§8. Voting requirements.

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

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

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

§9. Administration and management.

A. The compact committee shall elect annually from among its members a chairman, a vice-chairman and a secretary/treasurer.
B. The compact committee shall adopt bylaws for the conduct of its business by a two-thirds vote of the total number of officials, or their alternates, on the committee at that time and shall have the power by the same vote to amend and rescind these bylaws. The committee shall publish its bylaws in convenient form and shall file a copy of the bylaws and a copy of any amendments to the bylaws with the secretary of state or equivalent agency of each of the party states.

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

D. Employees of the compact committee shall be considered governmental employees.

§10. Immunity from liability for performance of official responsibilities and duties.

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

ARTICLE V. RIGHTS AND RESPONSIBILITIES OF EACH PARTY STATE.

§11. Rights and responsibilities of each party state.

A. By enacting this compact, each party state:

1. Agrees: (i) To accept the decisions of the compact committee regarding the issuance of compact committee licenses to participants in live racing pursuant to the committee’s licensure requirements; and (ii) to reimburse or otherwise pay the expenses of its official representative on the compact committee or his or her alternate.
2. Agrees not to treat a notification to an applicant by the compact committee under paragraph three of section seven that the compact committee will not be able to process his or her application further as the denial of a license, or to penalize such an applicant in any other way based solely on such a decision by the compact committee.

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

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

ARTICLE VI. CONSTRUCTION AND SEVERABILITY.

§12. Construction and severability.

This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact shall be severable, and, if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of the United States or of any party state, or the applicability of this compact to any government, agency, person or circumstance is held
invalid, the validity of the remainder of this compact and the
applicability thereof to any government, agency, person or
circumstance shall not be affected thereby. If all or some
portion of this compact is held to be contrary to the constitution
of any party state, the compact shall remain in full force and
effect as to the remaining party states and in full force and
effect as to the state affected as to all severable matters.

§19-24-2. Compact Committee members.

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


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

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

Nothing in this article diminishes or limits the powers and
responsibilities of the racing commission established article
twenty-three of this chapter, or invalidates any action of the
racing commission previously taken, including without limita-
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 November, 2000.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/26/10
Time 3:47