

# **WEST VIRGINIA LEGISLATURE**

**SECOND REGULAR SESSION, 2000**



# **ENROLLED**

## **House Bill No. 4689**

**(By Delegates Faircloth, Doyle and Manuel)**



**Passed March 11, 2000**

**In Effect from Passage**

**ENROLLED**

**H. B. 4689**

(BY DELEGATES FAIRCLOTH, DOYLE AND MANUEL)

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

AN ACT to amend and reenact sections thirteen and thirteen-b, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to disposition of funds for payment of outstanding and unredeemed pari-mutuel tickets; providing funds from the unredeemed pari-mutual ticket fund for health, disability and retirement benefits for eligible active, disabled and retired West Virginia jockeys and their dependents; providing that each pari-mutuel thoroughbred horse track provides one restricted race per three racing days or more frequently as the three-member committee agrees; increasing the cap for moneys placed in the general purse fund to three hundred fifty thousand dollars; defining West Virginia bred-foal; and limiting qualification for the West Virginia accredited race fund to West Virginia bred-foals.

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

That sections thirteen and thirteen-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.**

**PART IX. DISPOSITION OF PERMIT FEES,  
REGISTRATION FEES AND FINES.**

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

1       (a) All moneys held by any licensee for the payment of  
2 outstanding and unredeemed pari-mutuel tickets, if not claimed  
3 within ninety days after the close of a horse or dog race meeting  
4 or the televised racing day, as the case may be, in connection  
5 with which the tickets were issued, shall be turned over by the  
6 licensee to the racing commission within fifteen days after the  
7 expiration of the ninety-day period, and the licensee shall give  
8 any information required by the racing commission concerning  
9 the outstanding and unredeemed tickets. All moneys shall be  
10 deposited by the racing commission in a banking institution of  
11 its choice in a special account to be known as "West Virginia  
12 Racing Commission Special Account — Unredeemed  
13 Pari-Mutuel Tickets". Notice of the amount, date and place of  
14 the deposit shall be given by the racing commission, in writing,  
15 to the state treasurer. The racing commission shall then cause  
16 to be published a notice to the holders of the such outstanding  
17 and unredeemed pari-mutuel tickets, notifying them to present  
18 the tickets for payment at the principal office of the racing  
19 commission within ninety days from the date of the publication  
20 of the notice. The notice shall be published within fifteen days  
21 following the receipt of the moneys by the commission from the  
22 licensee as a Class I legal advertisement in compliance with the  
23 provisions of article three, chapter fifty-nine of this code, and  
24 the publication area for the publication shall be the county in  
25 which the horse or dog race meeting was held and the county in  
26 which the televised racing day wagering was conducted in this  
27 state.

28 (b) Any pari-mutuel tickets that are not presented for  
29 payment within ninety days from the date of the publication of  
30 the notice are thereafter irredeemable, and the moneys thereto-  
31 fore held for the redemption of the pari-mutuel tickets become  
32 the property of the racing commission and shall be expended as  
33 provided in this subsection. The racing commission shall  
34 maintain separate accounts for each licensee and shall record in  
35 the separate accounts the moneys turned over by the licensee  
36 and the amount expended at the licensee's track for the pur-  
37 poses set forth in this subsection. The moneys in the "West  
38 Virginia Racing Commission Special Account — Unredeemed  
39 Pari-Mutuel Tickets" shall be expended as follows:

40 (1) To the owner of the winning horse in any horse race at  
41 a horse race meeting held or conducted by any licensee:  
42 *Provided*, That the owner of the horse is at the time of the horse  
43 race a bona fide resident of this state, a sum equal to ten percent  
44 of the purse won by the horse. The commission may require  
45 proof that the owner was, at the time of the race, a bona fide  
46 resident of this state. Upon proof by the owner that he or she  
47 filed a personal income tax return in this state for the previous  
48 two years and that he or she owned real or personal property in  
49 this state and paid taxes in this state on the property for the  
50 previous two years, he or she shall be presumed to be a bona  
51 fide resident of this state; and

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

57 (3) To the owner of the stallion which sired the winning  
58 horse in any horse race at a horse race meeting held or con-  
59 ducted by any licensee: *Provided*, That the mare which foaled  
60 the winning horse was served by a stallion standing and

61 registered in this state, a sum equal to ten percent of the purse  
62 won by such horse; and

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

73 (5) When the moneys in the special account, known as the  
74 "West Virginia Racing Commission Special Account —  
75 Unredeemed Pari-Mutuel Tickets" will more than satisfy the  
76 requirements of subdivisions (1), (2), (3) and (4) of this  
77 subsection, the West Virginia racing commission shall have the  
78 authority to expend the excess moneys from unredeemed horse  
79 racing pari-mutuel tickets as purse money in any race condi-  
80 tioned exclusively for West Virginia bred or sired horses, and  
81 to expend the excess moneys from unredeemed dog racing pari-  
82 mutuel tickets in supplementing purses and establishing stake  
83 races and dog racing handicaps at the dog tracks: *Provided*,  
84 That beginning with the fiscal year beginning on the first day of  
85 July, one thousand nine hundred ninety-seven, and subject to  
86 the availability of funds, the commission shall, after the  
87 requirements of subdivisions (1), (2), (3) and (4) of this  
88 subsection have been satisfied:

89 (i) Transfer annually two hundred thousand dollars to the  
90 "West Virginia Racing Commission Special Account — West  
91 Virginia Greyhound Breeding Development Fund";

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

95 (iii) Transfer annually two hundred thousand dollars to the  
96 "Jockeys' Guild Health and Welfare Trust" to be maintained  
97 and administered by Jockeys' Guild, Inc., for the purpose of  
98 providing health, disability and retirement benefits to eligible  
99 active, disabled and retired West Virginia jockeys and their  
100 dependents in accordance with eligibility criteria established by  
101 Jockeys' Guild, Inc.

102 (6) Notwithstanding any limitations on use of funds  
103 pursuant to subdivision (6), subsection (c), section ten, article  
104 twenty-two-a, chapter twenty-nine of this code to the contrary,  
105 those funds deposited into the separate account previously  
106 dedicated solely to the West Virginia thoroughbred breeders  
107 classics shall be allocated as follows:

108 (A) For each fiscal year, the first eight hundred thousand  
109 dollars deposited in the separate account, shall be used by the  
110 commission for promotional activities, advertising, administra-  
111 tive costs and purses for the West Virginia thoroughbred  
112 breeders classics, which shall give equal consideration to all  
113 horses qualifying under the West Virginia breeders program for  
114 each stake race, based solely on the horses' sex, age and  
115 earnings.

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

122 (C) For each fiscal year, once the amounts provided in  
123 paragraphs (A) and (B) of this subdivision have been deposited  
124 into the separate account for use in connection with the West  
125 Virginia thoroughbred breeders classics and the West Virginia  
126 derby, the commission shall return to each racetrack all

127 additional amounts deposited which originate during that fiscal  
128 year from each respective racetrack pursuant to subdivision (6),  
129 subsection (c), section ten, article twenty-two-a, chapter twenty-  
130 nine of this code, which returned excess funds shall be used as  
131 follows:

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

137 (ii) At those thoroughbred racetracks that have participated  
138 in the West Virginia thoroughbred development fund for a  
139 period of more than four consecutive calendar years prior to the  
140 thirty-first day of December, one thousand nine hundred ninety-  
141 two, one half of the returned excess funds shall be used for  
142 capital improvements at the licensee's racetrack and one half of  
143 the returned excess funds shall be equally divided between the  
144 West Virginia thoroughbred breeders classics and the West  
145 Virginia thoroughbred development fund.

146 (iii) At those thoroughbred horse racetracks which do not  
147 participate in the West Virginia thoroughbred development  
148 fund, one half of the returned excess funds shall be used for  
149 capital improvements at the licensee's racetrack and one half of  
150 the returned excess funds shall be used for purses for the open  
151 stakes race event known as the West Virginia derby as provided  
152 in paragraph (B) of this subdivision.

153 (iv) All expenditures which are funded under this subdivi-  
154 sion (6) must be approved in writing by the West Virginia  
155 racing commission before the funds are expended for any of the  
156 purposes authorized by this subdivision.

157 The commission shall submit to the legislative auditor a  
158 quarterly report and accounting of the income, expenditures and

159 unobligated balance in the special account created by this  
160 section known as the “West Virginia Racing Commission  
161 Special Account — Unredeemed Pari-Mutuel Tickets”.

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

165 (d) The cost of publication of the notice provided for in this  
166 section shall be paid from the funds in the hands of the state  
167 treasurer collected from the pari-mutuel pools’ tax provided for  
168 in section ten of this article, when not otherwise provided in the  
169 budget; but no such costs shall be paid unless an itemized  
170 account thereof, under oath, be first filed with the state auditor.

**§19-23-13b. West Virginia thoroughbred development fund;  
distribution; restricted races; nonrestricted purse  
supplements.**

1 The racing commission shall deposit moneys required to be  
2 withheld by an association or licensee in subsection (b), section  
3 nine of this article in a banking institution of its choice in a  
4 special account to be known as “West Virginia Racing Com-  
5 mission Special Account — West Virginia Thoroughbred  
6 Development Fund”. Notice of the amount, date and place of  
7 the deposit shall be given by the racing commission, in writing,  
8 to the state treasurer. The purpose of the fund is to promote  
9 better breeding and racing of thoroughbred horses in the state  
10 through awards and purses for accredited breeders/raisers, sire  
11 owners and thoroughbred race horse owners. A further objec-  
12 tive of the fund is to aid in the rejuvenation and development of  
13 the present horse tracks now operating in West Virginia for  
14 capital improvements, operations or increased purses between  
15 the first day of July, one thousand nine hundred eighty-four,  
16 and the thirty-first day of October, one thousand nine hundred  
17 ninety-two: *Provided*, That five percent of the deposits required



18 to be withheld by an association or licensee in subsection (b),  
19 section nine of this article shall be placed in a special revenue  
20 account hereby created in the state treasury called the "admin-  
21 istration and promotion account". The racing commission is  
22 authorized to expend the moneys deposited in the administra-  
23 tion and promotion account at such times and in such amounts  
24 as the commission determines to be necessary for purposes of  
25 administering and promoting the thoroughbred development  
26 program: *Provided, however,* That during any fiscal year in  
27 which the commission anticipates spending any money from the  
28 account, the commission shall submit to the executive depart-  
29 ment during the budget preparation period prior to the Legisla-  
30 ture convening before that fiscal year for inclusion in the  
31 executive budget document and budget bill the recommended  
32 expenditures, as well as requests of appropriations for the  
33 purpose of administration and promotion of the program. The  
34 commission shall make an annual report to the Legislature on  
35 the status of the administration and promotion account, includ-  
36 ing the previous year's expenditures and projected expenditures  
37 for the next year.

38 The funds shall be established immediately and operate on  
39 an annual basis.

40 (a) Funds will be expended for awards and purses in the  
41 following manner:

42 (i) One hundred percent of the fund shall be available for  
43 distribution; and

44 (ii) Annually, the first one hundred thousand dollars of the  
45 fund shall be available for distribution for a maximum of four  
46 stakes races. One of these races shall be the West Virginia  
47 futurity and the second shall be the Frank Gall memorial stakes.  
48 The remaining races may be chosen by the committee set forth  
49 in subsection (b) of this section.

50 (b) Awards and purses shall be distributed as follows:

51 (i) The breeders/raisers of accredited thoroughbred horses  
52 that earn a purse at any West Virginia meet shall receive a  
53 bonus award calculated at the end of the year as a percentage of  
54 the fund dedicated to the breeders/raisers, which shall be sixty  
55 percent of the fund available for distribution in any one year.  
56 The total amount available for the breeders'/raisers' awards  
57 shall be distributed according to the ratio of purses earned by an  
58 accredited race horse to the total amount earned in the races by  
59 all accredited race horses for that year as a percentage of the  
60 fund dedicated to the breeders/raisers. However, no  
61 breeder/raiser may receive from the fund dedicated to breed-  
62 ers'/raisers' awards an amount in excess of the earnings of the  
63 accredited horse at West Virginia meets. In addition, should a  
64 horse's breeder and raiser qualify for the same award on the  
65 same horse, they will each be awarded one half of the proceeds.  
66 The bonus referred to in this subdivision shall only be paid on  
67 the first one hundred thousand dollars of any purse, and not on  
68 any amounts in excess thereof.

69 (ii) The owner of a West Virginia sire of an accredited  
70 thoroughbred horse that earns a purse in any race at a West  
71 Virginia meet shall receive a bonus award calculated at the end  
72 of the year as a percentage of the fund dedicated to sire owners,  
73 which shall be fifteen percent of the fund available for distribu-  
74 tion in any one year. The total amount available for the sire  
75 owners' awards shall be distributed according to the ratio  
76 purses earned by the progeny of accredited West Virginia  
77 stallions in the races for a particular stallion to the total purses  
78 earned by the progeny of all accredited West Virginia stallions  
79 in the races. However, no sire owner may receive from the fund  
80 dedicated to sire owners an amount in excess of thirty-five  
81 percent of the accredited earnings for each sire. The bonus  
82 referred to in this subdivision shall only be paid on the first one  
83 hundred thousand dollars of any purse, and not on any amounts  
84 in excess thereof.

85       (iii) The owner of an accredited thoroughbred horse that  
86 earns a purse in any race at a West Virginia meet shall receive  
87 a restricted purse supplement award calculated at the end of the  
88 year, which shall be twenty-five percent of the fund available  
89 for distribution in any one year, based on the ratio of the  
90 earnings in the races of a particular race horse to the total  
91 amount earned by all accredited race horses in the races during  
92 that year as a percentage of the fund dedicated to purse supple-  
93 ments. However, the owners may not receive from the fund  
94 dedicated to purse supplements an amount in excess of thirty-  
95 five percent of the total accredited earnings for each accredited  
96 race horse. The bonus referred to in this subdivision shall only  
97 be paid on the first one hundred thousand dollars of any purse,  
98 and not on any amounts in excess thereof.

99       (iv) In no event shall purses earned at a meet held at a track  
100 which did not make a contribution to the thoroughbred develop-  
101 ment fund out of the daily pool on the day the meet was held  
102 qualify or count toward eligibility for an award under this  
103 section.

104       (v) Any balance in the breeders/raisers, sire owners and  
105 purse supplement funds after yearly distributions shall: (1) Be  
106 utilized to fund the races established in subsection (d) of this  
107 section; and (2) revert back into the general account of the fund  
108 for distribution in the next year.

109       Distribution shall be made on the fifteenth day of each  
110 February for the preceding year's achievements.

111       (c) The remainder, if any, of the fund that is not available  
112 for distribution in the program provided for in this subsection  
113 in any one year is reserved for regular purses, marketing  
114 expenses and for capital improvements in the amounts and  
115 under the conditions provided in this subsection. Fifty percent  
116 of the remainder shall be reserved for payments into the regular

117 purse fund established in subsection (b), section nine of this  
118 article. Up to five hundred thousand dollars per year shall be  
119 available for: (1) Capital improvements at the eligible licensed  
120 horse racing tracks in the state; and (2) marketing and advertis-  
121 ing programs above and beyond two hundred fifty thousand  
122 dollars for the eligible licensed horse racing tracks in the state:  
123 *Provided*, That moneys shall be expended for capital improve-  
124 ments or marketing and advertising purposes as described in  
125 this subsection only in accordance with a plan filed with and  
126 receiving the prior approval of the racing commission, and on  
127 a basis of fifty percent participation by the licensee and fifty  
128 percent participation by moneys from the fund, in the total cost  
129 of approved projects: *Provided, however*, That funds approved  
130 for one track may not be used at another track unless the first  
131 track ceases to operate or is viewed by the commission as  
132 unworthy of additional investment due to financial or ethical  
133 reasons.

134 (d) Each pari-mutuel thoroughbred horse track shall provide  
135 one restricted race per three racing days: *Provided*, That  
136 restricted races may be conducted more frequently upon the  
137 agreement of the three-member committee described below.

138 The restricted races established in this subsection shall be  
139 administered by a three-member committee consisting of: (A)  
140 The racing secretary; (B) a member appointed by the authorized  
141 representative of a majority of the owners and trainers at the  
142 thoroughbred track; and (C) a member appointed by a majority  
143 of the thoroughbred breeders. The purses shall be twenty  
144 percent larger than the purses for similar type races at each  
145 track. Restricted races shall be funded by each racing associa-  
146 tion from:

147 (1) Moneys placed in the general purse fund up to a  
148 maximum of three hundred fifty thousand dollars per year.

149 (2) Moneys as provided in subdivision (v), subsection (b)

149       (2) Moneys as provided in subdivision (v), subsection (b)  
150 of this section shall be placed in a special fund called the “West  
151 Virginia accredited race fund”. The racing schedules, purse  
152 amounts and types of races are subject to the approval of the  
153 West Virginia racing commission.

154       As used in this section, “West Virginia bred-foal” means a  
155 horse that was born in the State of West Virginia.

156       To qualify for the West Virginia accredited race fund, the  
157 breeder must qualify under one of the following:

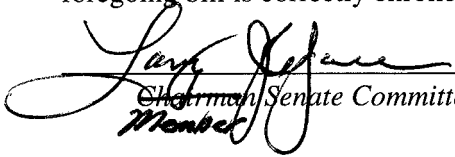
158       (1) The breeder of the West Virginia bred-foal is a West  
159 Virginia resident;

160       (2) The breeder of the West Virginia bred-foal is not a West  
161 Virginia resident, but keeps his or her breeding stock in West  
162 Virginia year-round; or

163       (3) The breeder of the West Virginia bred-foal is not a West  
164 Virginia resident and does not qualify under (2) above, but  
165 either the sire of the West Virginia bred-foal is a West Virginia  
166 stallion, or the mare is covered by a West Virginia stallion  
167 following the birth of that West Virginia bred-foal.

168       (e) No association or licensee qualifying for the alternate  
169 tax provision of subsection (b), section ten of this article is  
170 eligible for participation in any of the provisions of this section:  
171 *Provided*, That the provisions of this subsection shall not apply  
172 to a thoroughbred race track at which the licensee has partici-  
173 pated in the West Virginia thoroughbred development fund for  
174 a period of more than four consecutive calendar years prior to  
175 the thirty-first day of December, one thousand nine hundred  
176 ninety-two.

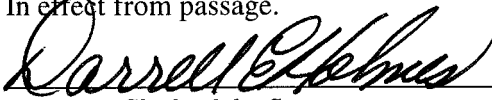
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

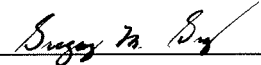
  
 Chairman Senate Committee  
 Member


  
 Chairman House Committee

Originating in the House.

In effect from passage.

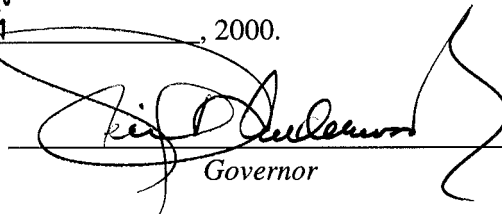
  
 Clerk of the Senate

  
 Clerk of the House of Delegates

  
 President of the Senate

  
 Speaker of the House of Delegates

The within dis approved this the 17th  
 day of March, 2000.

  
 Governor

PRESENTED TO THE

GOVERNOR

Date 3/16/02

Time 12:34 pm