WEST VIRGINIA LEGISLATURE  
SECOND REGULAR SESSION, 2000  

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ENROLLED

House Bill No. 4689  
(By Delegates Faircloth, Doyle and Manuel)

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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.

(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 the ninety-day period, and the licensee shall give any information required by the racing commission concerning the outstanding and unredeemed tickets. All 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 the 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 the such outstanding and unredeemed pari-mutuel tickets, notifying them to present the tickets for payment at the principal office of the racing commission within ninety days from the date of the publication of the notice. The notice shall be published within fifteen days following the receipt of the 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 the publication shall be the county in which the horse or dog race meeting was held and the county in which the televised racing day wagering was conducted in this state.
(b) Any pari-mutuel tickets that are not presented for payment within ninety days from the date of the publication of the notice are thereafter irredeemable, and the moneys therefore held for the redemption of the pari-mutuel tickets 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 in the separate accounts the moneys turned over by the licensee and the amount expended at the 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 the horse is at the time of the horse race a bona fide resident of this state, a sum equal to ten percent of the purse won by the horse. 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 or she filed a personal income tax return in this state for the previous two years and that he or she owned real or personal property in this state and paid taxes in this state on the property for the previous two years, he or she 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 the 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 the 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 the 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 the 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 condi-
tioned exclusively for West Virginia bred or sired horses, and
to expend the excess moneys from unredeemed dog racing pari-
mutuel tickets in supplementing purses and establishing stake
races and dog racing handicaps at the dog tracks: Provided,
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”;

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

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

(A) For each fiscal year, the first eight hundred thousand dollars deposited in the separate account, 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 (6), 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 (6) 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.

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

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

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

(ii) The owner of a West Virginia sire of an accredited thoroughbred horse that earns a purse in any race at a West Virginia meet shall receive a bonus award calculated at the end of the year as a percentage of the fund dedicated to sire owners, which shall be fifteen percent of the fund available for distribution in any one year. The total amount available for the sire owners' awards shall be distributed according to the ratio purses earned by the progeny of accredited West Virginia stallions in the races for a particular stallion to the total purses earned by the progeny of all accredited West Virginia stallions in the races. However, no sire owner may receive from the fund dedicated to sire owners an amount in excess of thirty-five percent of the accredited earnings for each sire. The bonus referred to in this subdivision shall only be paid on the first one hundred thousand dollars of any purse, and not on any amounts in excess thereof.
(iii) The owner of an accredited thoroughbred horse that earns a purse in any race at a West Virginia meet shall receive a restricted purse supplement award calculated at the end of the year, which shall be twenty-five percent of the fund available for distribution in any one year, based on the ratio of the earnings in the races of a particular race horse to the total amount earned by all accredited race horses in the races during that year as a percentage of the fund dedicated to purse supplements. However, the owners may not receive from the fund dedicated to purse supplements an amount in excess of thirty-five percent of the total accredited earnings for each accredited race horse. The bonus referred to in this subdivision shall only be paid on the first one hundred thousand dollars of any purse, and not on any amounts in excess thereof.

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

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

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

(c) The remainder, if any, of the fund that is not available for distribution in the program provided for in this subsection in any one year is reserved for regular purses, marketing expenses and for capital improvements in the amounts and under the conditions provided in this subsection. Fifty percent of the remainder shall be reserved for payments into the regular
purse fund established in subsection (b), section nine of this article. Up to five hundred thousand dollars per year shall be available for: (1) Capital improvements at the eligible licensed horse racing tracks in the state; and (2) marketing and advertising programs above and beyond two hundred fifty thousand dollars for the eligible licensed horse racing tracks in the state: Provided, That moneys shall be expended for capital improvements or marketing and advertising purposes as described in this subsection only in accordance with a plan filed with and receiving the prior approval of the racing commission, and on a basis of fifty percent participation by the licensee and fifty percent participation by moneys from the fund, in the total cost of approved projects: Provided, however, That funds approved for one track may not be used at another track unless the first track ceases to operate or is viewed by the commission as unworthy of additional investment due to financial or ethical reasons.

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

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

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

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

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

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

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

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

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

(e) No association or licensee qualifying for the alternate tax provision of subsection (b), section ten of this article is eligible for participation in any of the provisions of this section: Provided, That the provisions of this subsection shall not apply to a thoroughbred race track at which 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.
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 from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 17th day of ______, 2000.

Governor