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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001



ENROLLED

House Bill No. 3122

(By Delegates Faircloth, Doyle and Manuel)



Passed April 14, 2001

In Effect Ninety Days from Passage

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2001 MAY -2 A 11: 19

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H. B. 3122

(BY DELEGATES FAIRCLOTH, DOYLE AND MANUEL)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section thirteen-b, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia thoroughbred development fund and thoroughbred horse racing; increasing amount of money available from the fund for awards and purses in stakes races; removing limitation on number of stakes races; increasing frequency of restricted races; and giving West Virginia accredited thoroughbred horses preferences for entry in certain races.

Be it enacted by the Legislature of West Virginia:

That section 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.

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

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1 (a) The racing commission shall deposit moneys required
2 to be withheld by an association or licensee in subsection (b),
3 section nine of this article in a banking institution of its choice
4 in a special account to be known as "West Virginia racing
5 commission special account — West Virginia thoroughbred
6 development fund." Notice of the amount, date and place of the
7 deposit shall be given by the racing commission, in writing, to
8 the state treasurer. The purpose of the fund is to promote better
9 breeding and racing of thoroughbred horses in the state through
10 awards and purses for accredited breeders/raisers, sire owners
11 and thoroughbred race horse owners. A further objective of the
12 fund is to aid in the rejuvenation and development of the
13 present horse tracks now operating in West Virginia for capital
14 improvements, operations or increased purses: *Provided*, That
15 five percent of the deposits required to be withheld by an
16 association or licensee in subsection (b), section nine of this
17 article shall be placed in a special revenue account hereby
18 created in the state treasury called the "administration and
19 promotion account."

20 (b) The racing commission is authorized to expend the
21 moneys deposited in the administration and promotion account
22 at times and in amounts as the commission determines to be
23 necessary for purposes of administering and promoting the
24 thoroughbred development program: *Provided*, That during any
25 fiscal year in which the commission anticipates spending any
26 money from the account, the commission shall submit to the
27 executive department during the budget preparation period prior
28 to the Legislature convening before that fiscal year for inclusion
29 in the executive budget document and budget bill the recom-
30 mended expenditures, as well as requests of appropriations for
31 the purpose of administration and promotion of the program.
32 The commission shall make an annual report to the Legislature
33 on the status of the administration and promotion account,
34 including the previous year's expenditures and projected
35 expenditures for the next year.

36 (c) The fund and the account established in subsection (a)
37 of this section shall operate on an annual basis.

38 (d) Funds in the thoroughbred development fund shall be
39 expended for awards and purses except as otherwise provided
40 in this section. Annually, the first three hundred thousand
41 dollars of the fund shall be available for distribution for stakes
42 races. One of the stakes races shall be the West Virginia futurity
43 and the second shall be the Frank Gall memorial stakes. The
44 remaining races may be chosen by the committee set forth in
45 subsection (g) of this section.

46 (e) Awards and purses shall be distributed as follows:

47 (1) The breeders/raisers of accredited thoroughbred horses
48 that earn a purse at any West Virginia meet shall receive a
49 bonus award calculated at the end of the year as a percentage of
50 the fund dedicated to the breeders/raisers, which shall be sixty
51 percent of the fund available for distribution in any one year.
52 The total amount available for the breeders'/raisers' awards
53 shall be distributed according to the ratio of purses earned by an
54 accredited race horse to the total amount earned in the races by
55 all accredited race horses for that year as a percentage of the
56 fund dedicated to the breeders/raisers. However, no
57 breeder/raiser may receive from the fund dedicated to breed-
58 ers'/raisers' awards an amount in excess of the earnings of the
59 accredited horse at West Virginia meets. In addition, should a
60 horse's breeder and raiser qualify for the same award on the
61 same horse, they will each be awarded one half of the proceeds.
62 The bonus referred to in this subdivision (1) may only be paid
63 on the first one hundred thousand dollars of any purse, and not
64 on any amounts in excess of the first one hundred thousand
65 dollars.

66 (2) The owner of a West Virginia sire of an accredited
67 thoroughbred horse that earns a purse in any race at a West

68 Virginia meet shall receive a bonus award calculated at the end
69 of the year as a percentage of the fund dedicated to sire owners,
70 which shall be fifteen percent of the fund available for distribu-
71 tion in any one year. The total amount available for the sire
72 owners' awards shall be distributed according to the ratio of
73 purses earned by the progeny of accredited West Virginia
74 stallions in the races for a particular stallion to the total purses
75 earned by the progeny of all accredited West Virginia stallions
76 in the races. However, no sire owner may receive from the fund
77 dedicated to sire owners an amount in excess of thirty-five
78 percent of the accredited earnings for each sire. The bonus
79 referred to in this subdivision (2) shall only be paid on the first
80 one hundred thousand dollars of any purse, and not on any
81 amounts in excess the first one hundred thousand dollars.

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

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

102 (5) Any balance in the breeders/raisers, sire owners and
103 purse supplement funds after yearly distributions shall first be
104 used to fund the races established in subsection (g) of this
105 section. Any amount not so used shall revert back into the
106 general account of the thoroughbred development fund for
107 distribution in the next year.

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

110 (f) The remainder, if any, of the thoroughbred development
111 fund that is not available for distribution in the program
112 provided for in subsection (e) of this section in any one year is
113 reserved for regular purses, marketing expenses and for capital
114 improvements in the amounts and under the conditions pro-
115 vided in this subsection (f).

116 (1) Fifty percent of the remainder shall be reserved for
117 payments into the regular purse fund established in subsection
118 (b), section nine of this article.

119 (2) Up to five hundred thousand dollars per year shall be
120 available for:

121 (A) Capital improvements at the eligible licensed horse
122 racing tracks in the state; and

123 (B) Marketing and advertising programs above and beyond
124 two hundred fifty thousand dollars for the eligible licensed
125 horse racing tracks in the state: *Provided*, That moneys shall be
126 expended for capital improvements or marketing and advertis-
127 ing purposes as described in this subsection only in accordance
128 with a plan filed with and receiving the prior approval of the
129 racing commission, and on a basis of fifty percent participation
130 by the licensee and fifty percent participation by moneys from
131 the fund, in the total cost of approved projects: *Provided*,
132 *however*, That funds approved for one track may not be used at

133 another track unless the first track ceases to operate or is
134 viewed by the commission as unworthy of additional invest-
135 ment due to financial or ethical reasons.

136 (g)(1) Each pari-mutuel thoroughbred horse track shall
137 provide at least one restricted race per two racing days.

138 (2) The restricted races established in this subsection shall
139 be administered by a three-member committee consisting of:

140 (A) The racing secretary;

141 (B) A member appointed by the authorized representative
142 of a majority of the owners and trainers at the thoroughbred
143 track; and

144 (C) A member appointed by a majority of the thoroughbred
145 breeders.

146 (3) The purses for the restricted races established in this
147 subsection shall be twenty percent larger than the purses for
148 similar type races at each track.

149 (4) Restricted races shall be funded by each racing associa-
150 tion from:

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

153 (B) Moneys as provided in subdivision (5), subsection (e)
154 of this section, which shall be placed in a special fund called the
155 "West Virginia accredited race fund."

156 (5) The racing schedules, purse amounts and types of races
157 are subject to the approval of the West Virginia racing commis-
158 sion.

159 (h) As used in this section, "West Virginia bred-foal"
160 means a horse that was born in the state of West Virginia.

161 (i) To qualify for the West Virginia accredited race fund,
162 the breeder must qualify under one of the following:

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

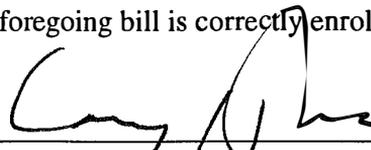
165 (2) The breeder of the West Virginia bred-foal is not a West
166 Virginia resident, but keeps his or her breeding stock in West
167 Virginia year-round; or

168 (3) The breeder of the West Virginia bred-foal is not a West
169 Virginia resident and does not qualify under subdivision (2) of
170 this subsection, but either the sire of the West Virginia bred-
171 foal is a West Virginia stallion, or the mare is covered by a
172 West Virginia stallion following the birth of that West Virginia
173 bred-foal.

174 (j) No association or licensee qualifying for the alternate
175 tax provision of subsection (b), section ten of this article is
176 eligible for participation in any of the provisions of this section:
177 *Provided*, That the provisions of this subsection do not apply to
178 a thoroughbred race track at which the licensee has participated
179 in the West Virginia thoroughbred development fund for a
180 period of more than four consecutive calendar years prior to the
181 thirty-first day of December, one thousand nine hundred
182 ninety-two.

183 (k) From the first day of July, two thousand one, West
184 Virginia accredited thoroughbred horses have preference for
185 entry in all accredited races at a thoroughbred race track at
186 which the licensee has participated in the West Virginia
187 thoroughbred development fund for a period of more than four
188 consecutive calendar years prior to the thirty-first day of
189 December, one thousand nine hundred ninety-two.

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



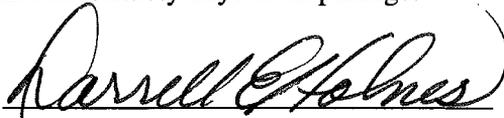
Chairman Senate Committee



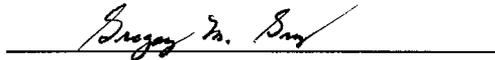
Chairman House Committee

Originating in the House.

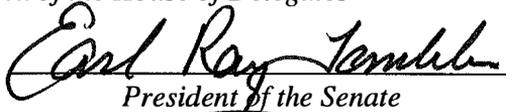
In effect ninety days from passage.



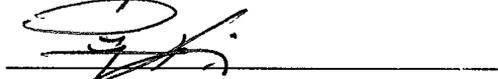
Clerk of the Senate



Clerk of the House of Delegates

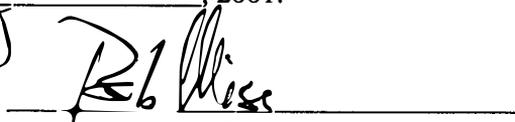


President of the Senate



Speaker of the House of Delegates

The within is approved this the 1st
day of May, 2001.



Governor

GOVERNOR

Date

4/27/01

Time

4:30 pm