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
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.
(a) 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: Provided, That five percent of the deposits required to be withheld by an association or licensee in subsection (b), section nine of this article shall be placed in a special revenue account hereby created in the state treasury called the “administration and promotion account.”

(b) The racing commission is authorized to expend the moneys deposited in the administration and promotion account at times and in amounts as the commission determines to be necessary for purposes of administering and promoting the thoroughbred development program: Provided, That during any fiscal year in which the commission anticipates spending any money from the account, the commission shall submit to the executive department during the budget preparation period prior to the Legislature convening before that fiscal year for inclusion in the executive budget document and budget bill the recommended expenditures, as well as requests of appropriations for the purpose of administration and promotion of the program. The commission shall make an annual report to the Legislature on the status of the administration and promotion account, including the previous year’s expenditures and projected expenditures for the next year.
The fund and the account established in subsection (a) of this section shall operate on an annual basis.

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

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

(1) 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 (1) may only be paid on the first one hundred thousand dollars of any purse, and not on any amounts in excess of the first one hundred thousand dollars.

(2) 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 of 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 (2) shall only be paid on the first one hundred thousand dollars of any purse, and not on any amounts in excess the first one hundred thousand dollars.

(3) 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 of the first one hundred thousand dollars.

(4) In no event may 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 subsection.
(5) Any balance in the breeders/raisers, sire owners and purse supplement funds after yearly distributions shall first be used to fund the races established in subsection (g) of this section. Any amount not so used shall revert back into the general account of the thoroughbred development fund for distribution in the next year.

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

(f) The remainder, if any, of the thoroughbred development fund that is not available for distribution in the program provided for in subsection (e) of this section 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 (f).

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

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

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

(B) 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.

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

(2) 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.

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

(4) Restricted races shall be funded by each racing association from:

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

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

(5) The racing schedules, purse amounts and types of races are subject to the approval of the West Virginia racing commission.
(h) As used in this section, "West Virginia bred-foal" means a horse that was born in the state of West Virginia.

(i) 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 subdivision (2) of this subsection, 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.

(j) 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 do 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.

(k) From the first day of July, two thousand one, West Virginia accredited thoroughbred horses have preference for entry in all accredited races at 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 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 ___ day of ___ 2001.

Governor