WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2414

(By Delegates Faircloth, Doyle, Tabb, Blair and Manuel)

Passed March 8, 2003

In Effect Ninety Days from Passage
AN ACT to amend and reenact sections ten, thirteen and thirteen-b, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to horse and dog racing generally; increasing from ten to thirteen the number of racing performances during a calendar day by an association or licensee before the payment of both the daily license tax and the alternative tax imposed by section ten; creating bona fide resident of West Virginia for participation in the greyhound dog whelping fund; defining proof of bona fide residency; deleting provisions related to payment to lessors; deleting provisions relating to contributions to the jockey fund from the uncashed pari-mutuel ticket fund; and increasing the amount of restricted thoroughbred horse races in certain circumstances.

Be it enacted by the Legislature of West Virginia:
That sections ten, 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 VII. TAXATION OF HORSE AND DOG RACING AND PARI-MUTUEL WAGERING; DISPOSITION OF REVENUES.

§19-23-10. Daily license tax; pari-mutuel pools tax; how taxes paid; alternate tax; credits.

(a) Any racing association conducting thoroughbred racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of two hundred fifty dollars. Any racing association conducting harness racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of one hundred fifty dollars. Any racing association conducting dog races shall pay each day upon which dog races are run a daily license tax of one hundred fifty dollars. In the event thoroughbred racing, harness racing, dog racing, or any combination of the foregoing are conducted on the same day at the same racetrack by the same racing association, only one daily license tax in the amount of two hundred fifty dollars shall be paid for that day. Any daily license tax shall not apply to any local, county or state fair, horse show or agricultural or livestock exposition at which horse racing is conducted for not more than six days.

(b) Any racing association licensed by the racing commission to conduct thoroughbred racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax set forth in subsection (a) of this section, pay to the racing commission, from the commission deducted each day by the licensee from the pari-mutuel pools on thoroughbred racing a tax calculated
on the total daily contribution of all pari-mutuel pools con-
ducted or made at any and every thoroughbred race meeting of
the licensee licensed under the provisions of this article. The
tax, on the pari-mutuel pools conducted or made each day
during the months of January, February, March, October,
November and December, shall from the effective date of this
section and for fiscal year one thousand nine hundred eighty-
five be calculated at two and six-tenths percent; for fiscal year
one thousand nine hundred eighty-six, be calculated at two and
three-tenths percent; for fiscal year one thousand nine hundred
eighty-seven, be calculated at two percent of the pool; for fiscal
year one thousand nine hundred eighty-eight, be calculated at
one and one-half percent; for fiscal year one thousand nine
hundred eighty-nine, be calculated at one percent of the pool;
for fiscal year one thousand nine hundred ninety, seven tenths
of one percent, and for fiscal year one thousand nine hundred
ninety-one and each fiscal year thereafter be calculated at four
tenths of one percent of the pool; and, on the pari-mutuel pools
conducted or made each day during all other months, shall from
the effective date of this section and for fiscal year one thou-
sand nine hundred eighty-five, be calculated at three and six-
tenths percent; for fiscal year one thousand nine hundred
eighty-six, be calculated at three and three-tenths percent; for
fiscal year one thousand nine hundred eighty-seven, be calcu-
lated at three percent of the pool; for fiscal year one thousand
nine hundred eighty-eight, be calculated at two and one-half
percent; for fiscal year one thousand nine hundred eighty-nine,
be calculated at two percent of the pool; for fiscal year one
thousand nine hundred ninety, be calculated at one and seven-
tenths percent of the pool; and for fiscal year one thousand
nine hundred ninety-one and each fiscal year thereafter, be calcu-
lated at one and four-tenths percent of the pool: Provided, That
out of the amount realized from the three tenths of one percent
decrease in the tax effective for fiscal year one thousand nine
hundred ninety-one and thereafter, which decrease correspond-
ingly increases the amount of commission retained by the
licensee, the licensee shall annually expend or dedicate: (i) One half of the realized amount for capital improvements in its barn area at the track, subject to the racing commission’s prior approval of the plans for the improvements; and (ii) the remaining one half of the realized amount for capital improvements as the licensee may determine appropriate at the track. The term “capital improvement” shall be as defined by the Internal Revenue Code: Provided, however, That any racing association operating a horse racetrack in this state having an average daily pari-mutuel pool on horse racing of two hundred eighty thousand dollars or less per day for the race meetings of the preceding calendar year shall, in lieu of payment of the pari-mutuel pool tax, calculated as in this subsection, be permitted to conduct pari-mutuel wagering at the horse racetrack on the basis of a daily pari-mutuel pool tax fixed as follows: On the daily pari-mutuel pool not exceeding three hundred thousand dollars the daily pari-mutuel pool tax shall be one thousand dollars plus the otherwise applicable percentage rate imposed by this subsection of the daily pari-mutuel pool, if any, in excess of three hundred thousand dollars: Provided further, That upon the effective date of the reduction of the daily pari-mutuel pool tax to one thousand dollars from the former two thousand dollars, the association or licensee shall daily deposit five hundred dollars into the special fund for regular purses established by subdivision (1), subsection (b), section nine of this article: And provided further, That if an association or licensee qualifying for the foregoing alternate tax conducts more than one racing performance, each consisting of up to thirteen races in a calendar day, the association or licensee shall pay both the daily license tax imposed in subsection (a) of this section and the alternate tax in this subsection for each performance: And provided further, That a licensee qualifying for the foregoing alternate tax is excluded from participation in the fund established by section thirteen-b of this article: And provided further, That this exclusion shall not apply to any thoroughbred racetrack at which the licensee has participated in
the West Virginia thoroughbred development fund for more than four consecutive years prior to the thirty-first day of December, one thousand nine hundred ninety-two.

(c) Any racing association licensed by the racing commission to conduct harness racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax required under subsection (a) of this section, pay to the racing commission, from the commission deducted each day by the licensee from the pari-mutuel pools on harness racing, as a tax, three percent of the first one hundred thousand dollars wagered, or any part thereof; four percent of the next one hundred fifty thousand dollars; and five and three-fourths percent of all over that amount wagered each day in all pari-mutuel pools conducted or made at any and every harness race meeting of the licensee licensed under the provisions of this article.

(d) Any racing association licensed by the racing commission to conduct dog racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax required under subsection (a) of this section, pay to the racing commission, from the commission deducted each day by the licensee from the pari-mutuel pools on dog racing, as a tax, four percent of the first fifty thousand dollars or any part thereof of the pari-mutuel pools, five percent of the next fifty thousand dollars of the pari-mutuel pools, six percent of the next one hundred thousand dollars of the pari-mutuel pools, seven percent of the next one hundred fifty thousand dollars of the pari-mutuel pools, and eight percent of all over three hundred fifty thousand dollars wagered each day: Provided, That the licensee shall deduct daily from the pari-mutuel tax an amount equal to one tenth of one percent of the daily pari-mutuel pools in dog racing in fiscal year one thousand nine hundred ninety; fifteen hundredths of one percent in fiscal year one thousand nine hundred ninety-one; two tenths
of one percent in fiscal year one thousand nine hundred ninety-
two; one quarter of one percent in fiscal year one thousand nine
hundred ninety-three; and three tenths of one percent in fiscal
year one thousand nine hundred ninety-four and every fiscal
year thereafter. The amounts deducted shall be paid to the
racing commission to 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 Ac-
count-West Virginia Greyhound Breeding Development Fund”.
The purpose of the fund is to promote better breeding and
racing of greyhounds in the state through awards and purses to
bonafide resident owners of accredited West Virginia whelped
greyhounds. In order to be eligible to receive an award or purse
through the fund, the owner of the accredited West Virginia
whelped greyhound must be a bonafide resident of this state. To
qualify as a bona fide resident of West Virginia, an owner may
not claim residency in any other state. An owner must prove
bona fide residency by providing to the commission personal
income tax returns filed in the state of West Virginia for the
most recent tax year and the three previous tax years, has real
or personal property in this state on which the owner has paid
real or personal property taxes during the most recent tax year
and the previous three tax years and an affidavit stating that the
owner claims no other state of residency. The racing commis-
sion and the West Virginia greyhound owners and breeders
association shall maintain a registry for West Virginia bred
greyhounds. The moneys shall be expended by the racing
commission for purses for stake races, supplemental purse
awards, administration, promotion and educational programs
involving West Virginia whelped dogs, owned by residents of
this state under rules promulgated by the racing commission.
The racing commission shall pay out of the greyhound breeding
development fund to each of the licensed dog racing tracks the
sum of seventy-five thousand dollars for the fiscal year ending
the thirtieth day of June, one thousand nine hundred
ninety-four. The licensee shall deposit the sum into the special
fund for regular purses established under the provisions of section nine of this article. The funds shall be expended solely for the purpose of supplementing regular purses under rules promulgated by the racing commission.

The owner of accredited West Virginia whelped greyhounds that earn a purse at any West Virginia meet will receive a bonus award calculated at the end of each month as a percentage of the fund dedicated to the owners as purse supplements, which shall be a minimum of fifty percent of the total moneys deposited into the West Virginia greyhound breeding development fund monthly: Provided, That to be considered an accredited West Virginia whelped greyhound, a dog must be domiciled in the state of West Virginia at least twelve months from the whelping date.

The total amount of the fund available for the owners’ awards shall be distributed according to the ratio of purses earned by an accredited greyhound to the total amount earned in races by all accredited West Virginia whelped greyhounds for that month as a percentage of the funds dedicated to the owners’ purse supplements.

The owner of an accredited West Virginia whelped greyhound shall file a purse distribution form with the racing commission for a percentage of his or her dog’s earnings to be paid directly to the registered owner or owners of the greyhound. Distribution shall be made on the fifteenth day of each month for the preceding month’s achievements.

In no event shall purses earned at a meet held at a track which did not make contributions to the West Virginia greyhound breeder’s development fund out of the daily pool on the day the meet was held qualify or count toward eligibility for supplemental purse awards.
Any balance in the purse supplement funds after all distributions have been made for the year revert to the general account of the fund for distribution in the following year.

In an effort to further promote the breeding of quality West Virginia whelped greyhounds, a bonus purse supplement shall be established in the amount of fifty thousand dollars per annum, to be paid in equal quarterly installments of twelve thousand five hundred dollars per quarter using the same method to calculate and distribute these funds as the regular supplemental purse awards. This bonus purse supplement is for three years only, commencing on the first day of July, one thousand nine hundred ninety-three, and ending the thirtieth day of June, one thousand nine hundred ninety-six. This money would come from the current existing balance in the greyhound development fund.

Each pari-mutuel greyhound track shall provide stakes races for accredited West Virginia whelped greyhounds: Provided, That each pari-mutuel track shall have one juvenile and one open stake race annually. The racing commission shall oversee and approve racing schedules and purse amounts.

Ten percent of the deposits into the greyhound breeding development fund beginning the first day of July, one thousand nine hundred ninety-three and continuing each year thereafter, shall be withheld by the racing commission and placed in a special revenue account hereby created in the state treasury called the “administration, promotion and educational account”. The racing commission is authorized to expend the moneys deposited in the administration, promotion and educational account at such times and in such amounts as the commission determines to be necessary for purposes of administering and promoting the greyhound development program: Provided, That beginning with fiscal year one thousand nine hundred ninety-five and in each fiscal year thereafter 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 administra-
tion, promotion and education. The commission shall make an annual report to the Legislature on the status of the administra-
tion, promotion and education account, including the previous year’s expenditures and projected expenditures for the next year.

The racing commission, for the fiscal year one thousand nine hundred ninety-four only, may expend up to thirty-five thousand dollars from the West Virginia greyhound breeding development fund to accomplish the purposes of this section without strictly following the requirements in the previous paragraph.

(e) All daily license and pari-mutuel pools tax payments required under the provisions of this section shall be made to the racing commission or its agent after the last race of each day of each horse or dog race meeting, and the pari-mutuel pools tax payments shall be made from all contributions to all pari-mutuel pools to each and every race of the day.

(f) Every association or licensee subject to the provisions of this article, including the changed provisions of sections nine and ten of this article, shall annually submit to the racing commission and the Legislature financial statements, including a balance sheet, income statement, statement of change in financial position and an audit of any electronic data system used for pari-mutuel tickets and betting, prepared in accordance with generally accepted auditing standards, as certified by an experienced public accountant or a certified public accountant.
§19-23-13. Disposition of funds for payment of outstanding and unredeemed pari-mutuel tickets; publication of notice; irredeemable tickets; stake races for dog tracks.

(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. The 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 each 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 outstanding and unredeemed pari-mutuel tickets, notifying them to present their unredeemed 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 outstanding and unredeemed pari-mutuel ticket 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 outstanding and unredeemed 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 theretofore held for the redemption of the pari-mutuel tickets shall 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 each separate account 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 at that race. 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 real or personal 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 the horse; and
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

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 conditioned 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 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:

(A) Transfer annually two hundred thousand dollars to the West Virginia greyhound breeding development fund; and

(B) Transfer annually two hundred thousand dollars into a separate account to be used for stakes races for West Virginia bred greyhounds at dog racetracks.

(C) 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.

(d) 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.

(e) 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; 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.

(c) 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 of 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 supple-
ments. 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 develop-
ment 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 pro-
vided 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: Provided, That, if there are sufficient additional funds available under the provisions of subdivision (4) of this subsection, each pari-mutuel thoroughbred horse track may provide one restricted race per race day.

(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 that year exclusively 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

Greg Butcher
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 disapproved this the 3rd day of April, 2003.

Governor