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STATE OF WEST VIRGINIA

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

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 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.

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

17 (b) Any racing association licensed by the racing commis-
18 sion to conduct thoroughbred racing and permitting and
19 conducting pari-mutuel wagering under the provisions of this
20 article shall, in addition to the daily license tax set forth in
21 subsection (a) of this section, pay to the racing commission,
22 from the commission deducted each day by the licensee from
23 the pari-mutuel pools on thoroughbred racing a tax calculated

24 on the total daily contribution of all pari-mutuel pools con-
25 ducted or made at any and every thoroughbred race meeting of
26 the licensee licensed under the provisions of this article. The
27 tax, on the pari-mutuel pools conducted or made each day
28 during the months of January, February, March, October,
29 November and December, shall from the effective date of this
30 section and for fiscal year one thousand nine hundred eighty-
31 five be calculated at two and six-tenths percent; for fiscal year
32 one thousand nine hundred eighty-six, be calculated at two and
33 three-tenths percent; for fiscal year one thousand nine hundred
34 eighty-seven, be calculated at two percent of the pool; for fiscal
35 year one thousand nine hundred eighty-eight, be calculated at
36 one and one-half percent; for fiscal year one thousand nine
37 hundred eighty-nine, be calculated at one percent of the pool;
38 for fiscal year one thousand nine hundred ninety, seven tenths
39 of one percent, and for fiscal year one thousand nine hundred
40 ninety-one and each fiscal year thereafter be calculated at four
41 tenths of one percent of the pool; and, on the pari-mutuel pools
42 conducted or made each day during all other months, shall from
43 the effective date of this section and for fiscal year one thou-
44 sand nine hundred eighty-five, be calculated at three and six-
45 tenths percent; for fiscal year one thousand nine hundred
46 eighty-six, be calculated at three and three-tenths percent; for
47 fiscal year one thousand nine hundred eighty-seven, be calcu-
48 lated at three percent of the pool; for fiscal year one thousand
49 nine hundred eighty-eight, be calculated at two and one-half
50 percent; for fiscal year one thousand nine hundred eighty-nine,
51 be calculated at two percent of the pool; for fiscal year one
52 thousand nine hundred ninety, be calculated at one and seven-
53 tenths percent of the pool; and for fiscal year one thousand nine
54 hundred ninety-one and each fiscal year thereafter, be calcu-
55 lated at one and four-tenths percent of the pool: *Provided*, That
56 out of the amount realized from the three tenths of one percent
57 decrease in the tax effective for fiscal year one thousand nine
58 hundred ninety-one and thereafter, which decrease correspond-
59 ingly increases the amount of commission retained by the

60 licensee, the licensee shall annually expend or dedicate: (i) One
61 half of the realized amount for capital improvements in its barn
62 area at the track, subject to the racing commission's prior
63 approval of the plans for the improvements; and (ii) the
64 remaining one half of the realized amount for capital improve-
65 ments as the licensee may determine appropriate at the track.
66 The term "capital improvement" shall be as defined by the
67 Internal Revenue Code: *Provided, however,* That any racing
68 association operating a horse racetrack in this state having an
69 average daily pari-mutuel pool on horse racing of two hundred
70 eighty thousand dollars or less per day for the race meetings of
71 the preceding calendar year shall, in lieu of payment of the pari-
72 mutuel pool tax, calculated as in this subsection, be permitted
73 to conduct pari-mutuel wagering at the horse racetrack on the
74 basis of a daily pari-mutuel pool tax fixed as follows: On the
75 daily pari-mutuel pool not exceeding three hundred thousand
76 dollars the daily pari-mutuel pool tax shall be one thousand
77 dollars plus the otherwise applicable percentage rate imposed
78 by this subsection of the daily pari-mutuel pool, if any, in
79 excess of three hundred thousand dollars: *Provided further,*
80 That upon the effective date of the reduction of the daily pari-
81 mutuel pool tax to one thousand dollars from the former two
82 thousand dollars, the association or licensee shall daily deposit
83 five hundred dollars into the special fund for regular purses
84 established by subdivision (1), subsection (b), section nine of
85 this article: *And provided further,* That if an association or
86 licensee qualifying for the foregoing alternate tax conducts
87 more than one racing performance, each consisting of up to
88 thirteen races in a calendar day, the association or licensee shall
89 pay both the daily license tax imposed in subsection (a) of this
90 section and the alternate tax in this subsection for each perfor-
91 mance: *And provided further,* That a licensee qualifying for the
92 foregoing alternate tax is excluded from participation in the
93 fund established by section thirteen-b of this article: *And*
94 *provided further,* That this exclusion shall not apply to any
95 thoroughbred racetrack at which the licensee has participated in

96 the West Virginia thoroughbred development fund for more
97 than four consecutive years prior to the thirty-first day of
98 December, one thousand nine hundred ninety-two.

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

112 (d) Any racing association licensed by the racing commis-
113 sion to conduct dog racing and permitting and conducting pari-
114 mutuel wagering under the provisions of this article shall, in
115 addition to the daily license tax required under subsection (a) of
116 this section, pay to the racing commission, from the commis-
117 sion deducted each day by the licensee from the pari-mutuel
118 pools on dog racing, as a tax, four percent of the first fifty
119 thousand dollars or any part thereof of the pari-mutuel pools,
120 five percent of the next fifty thousand dollars of the pari-mutuel
121 pools, six percent of the next one hundred thousand dollars of
122 the pari-mutuel pools, seven percent of the next one hundred
123 fifty thousand dollars of the pari-mutuel pools, and eight
124 percent of all over three hundred fifty thousand dollars wagered
125 each day: *Provided*, That the licensee shall deduct daily from
126 the pari-mutuel tax an amount equal to one tenth of one percent
127 of the daily pari-mutuel pools in dog racing in fiscal year one
128 thousand nine hundred ninety; fifteen hundredths of one percent
129 in fiscal year one thousand nine hundred ninety-one; two tenths

130 of one percent in fiscal year one thousand nine hundred ninety-
131 two; one quarter of one percent in fiscal year one thousand nine
132 hundred ninety-three; and three tenths of one percent in fiscal
133 year one thousand nine hundred ninety-four and every fiscal
134 year thereafter. The amounts deducted shall be paid to the
135 racing commission to be deposited by the racing commission in
136 a banking institution of its choice in a special account to be
137 known as "West Virginia Racing Commission-Special Ac-
138 count-West Virginia Greyhound Breeding Development Fund".
139 The purpose of the fund is to promote better breeding and
140 racing of greyhounds in the state through awards and purses to
141 bonafide resident owners of accredited West Virginia whelped
142 greyhounds. In order to be eligible to receive an award or purse
143 through the fund, the owner of the accredited West Virginia
144 whelped greyhound must be a bonafide resident of this state. To
145 qualify as a bona fide resident of West Virginia, an owner may
146 not claim residency in any other state. An owner must prove
147 bona fide residency by providing to the commission personal
148 income tax returns filed in the state of West Virginia for the
149 most recent tax year and the three previous tax years, has real
150 or personal property in this state on which the owner has paid
151 real or personal property taxes during the most recent tax year
152 and the previous three tax years and an affidavit stating that the
153 owner claims no other state of residency. The racing commis-
154 sion and the West Virginia greyhound owners and breeders
155 association shall maintain a registry for West Virginia bred
156 greyhounds. The moneys shall be expended by the racing
157 commission for purses for stake races, supplemental purse
158 awards, administration, promotion and educational programs
159 involving West Virginia whelped dogs, owned by residents of
160 this state under rules promulgated by the racing commission.
161 The racing commission shall pay out of the greyhound breeding
162 development fund to each of the licensed dog racing tracks the
163 sum of seventy-five thousand dollars for the fiscal year ending
164 the thirtieth day of June, one thousand nine hundred
165 ninety-four. The licensee shall deposit the sum into the special

166 fund for regular purses established under the provisions of
167 section nine of this article. The funds shall be expended solely
168 for the purpose of supplementing regular purses under rules
169 promulgated by the racing commission.

170 The owner of accredited West Virginia whelped grey-
171 hounds that earn a purse at any West Virginia meet will receive
172 a bonus award calculated at the end of each month as a percent-
173 age of the fund dedicated to the owners as purse supplements,
174 which shall be a minimum of fifty percent of the total moneys
175 deposited into the West Virginia greyhound breeding develop-
176 ment fund monthly: *Provided*, That to be considered an
177 accredited West Virginia whelped greyhound, a dog must be
178 domiciled in the state of West Virginia at least twelve months
179 from the whelping date.

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

186 The owner of an accredited West Virginia whelped grey-
187 hound shall file a purse distribution form with the racing
188 commission for a percentage of his or her dog's earnings to be
189 paid directly to the registered owner or owners of the grey-
190 hound. Distribution shall be made on the fifteenth day of each
191 month for the preceding month's achievements.

192 In no event shall purses earned at a meet held at a track
193 which did not make contributions to the West Virginia grey-
194 hound breeder's development fund out of the daily pool on the
195 day the meet was held qualify or count toward eligibility for
196 supplemental purse awards.

197 Any balance in the purse supplement funds after all
198 distributions have been made for the year revert to the general
199 account of the fund for distribution in the following year.

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

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

217 Ten percent of the deposits into the greyhound breeding
218 development fund beginning the first day of July, one thousand
219 nine hundred ninety-three and continuing each year thereafter,
220 shall be withheld by the racing commission and placed in a
221 special revenue account hereby created in the state treasury
222 called the "administration, promotion and educational account".
223 The racing commission is authorized to expend the moneys
224 deposited in the administration, promotion and educational
225 account at such times and in such amounts as the commission
226 determines to be necessary for purposes of administering and
227 promoting the greyhound development program: *Provided*, That
228 beginning with fiscal year one thousand nine hundred
229 ninety-five and in each fiscal year thereafter in which the

230 commission anticipates spending any money from the account,
231 the commission shall submit to the executive department during
232 the budget preparation period prior to the Legislature convening
233 before that fiscal year for inclusion in the executive budget
234 document and budget bill, the recommended expenditures, as
235 well as requests of appropriations for the purpose of administra-
236 tion, promotion and education. The commission shall make an
237 annual report to the Legislature on the status of the administra-
238 tion, promotion and education account, including the previous
239 year's expenditures and projected expenditures for the next
240 year.

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

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

253 (f) Every association or licensee subject to the provisions
254 of this article, including the changed provisions of sections nine
255 and ten of this article, shall annually submit to the racing
256 commission and the Legislature financial statements, including
257 a balance sheet, income statement, statement of change in
258 financial position and an audit of any electronic data system
259 used for pari-mutuel tickets and betting, prepared in accordance
260 with generally accepted auditing standards, as certified by an
261 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.

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. The 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 Pari-
13 Mutuel Tickets." Notice of the amount, date and place of each
14 deposit shall be given by the racing commission, in writing, to
15 the state treasurer. The racing commission shall then cause to
16 be published a notice to the holders of the outstanding and
17 unredeemed pari-mutuel tickets, notifying them to present their
18 unredeemed tickets for payment at the principal office of the
19 racing commission within ninety days from the date of the
20 publication of the notice. The notice shall be published within
21 fifteen days following the receipt of the outstanding and
22 unredeemed pari-mutuel ticket moneys by the commission from
23 the licensee as a Class I legal advertisement in compliance with
24 the provisions of article three, chapter fifty-nine of this code,
25 and the publication area for the publication shall be the county
26 in which the horse or dog race meeting was held and the county
27 in which the televised racing day wagering was conducted in
28 this state.

29 (b) Any outstanding and unredeemed pari-mutuel tickets
30 that are not presented for payment within ninety days from the

31 date of the publication of the notice are thereafter irredeemable,
32 and the moneys theretofore held for the redemption of the pari-
33 mutuel tickets shall become the property of the racing commis-
34 sion and shall be expended as provided in this subsection. The
35 racing commission shall maintain separate accounts for each
36 licensee and shall record in each separate account the moneys
37 turned over by the licensee and the amount expended at the
38 licensee's track for the purposes set forth in this subsection. The
39 moneys in the West Virginia racing commission special account
40 - unredeemed pari-mutuel tickets shall be expended as follows:

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

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

58 (3) To the owner of the stallion which sired the winning
59 horse in any horse race at a horse race meeting held or con-
60 ducted by any licensee: *Provided*, That the mare which foaled
61 the winning horse was served by a stallion standing and
62 registered in this state, a sum equal to ten percent of the purse
63 won by the horse; and

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

74 (5) When the moneys in the special account, known as the
75 West Virginia racing commission special account - unredeemed
76 pari-mutuel tickets will more than satisfy the requirements of
77 subdivisions (1), (2), (3) and (4) of this subsection, the West
78 Virginia racing commission shall have the authority to expend
79 the excess moneys from unredeemed horse racing pari-mutuel
80 tickets as purse money in any race conditioned exclusively for
81 West Virginia bred or sired horses, and to expend the excess
82 moneys from unredeemed dog racing pari-mutuel tickets in
83 supplementing purses and establishing stake races and dog
84 racing handicaps at the dog tracks: *Provided*, That subject to the
85 availability of funds, the commission shall, after the require-
86 ments of subdivisions (1), (2), (3) and (4) of this subsection
87 have been satisfied:

88 (A) Transfer annually two hundred thousand dollars to the
89 West Virginia racing commission special account - West
90 Virginia greyhound breeding development fund; and

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

94 (c) The commission shall submit to the legislative auditor
95 a quarterly report and accounting of the income, expenditures

96 and unobligated balance in the special account created by this
97 section known as the West Virginia racing commission special
98 account - unredeemed pari-mutuel tickets.

99 (d) Nothing contained in this article shall prohibit one
100 person from qualifying for all or more than one of the aforesaid
101 awards or for awards under section thirteen-b of this article.

102 (e) The cost of publication of the notice provided for in this
103 section shall be paid from the funds in the hands of the state
104 treasurer collected from the pari-mutuel pools' tax provided for
105 in section ten of this article, when not otherwise provided in the
106 budget; but no such costs shall be paid unless an itemized
107 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 ac-
credited thoroughbreds.**

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 of 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: *Pro-*
138 *vided*, That, if there are sufficient additional funds available
139 under the provisions of subdivision (4) of this subsection, each
140 pari-mutuel thoroughbred horse track may provide one re-
141 stricted race per race day.

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

144 (A) The racing secretary;

145 (B) A member appointed by the authorized representative
146 of a majority of the owners and trainers at the thoroughbred
147 track; and

148 (C) A member appointed by a majority of the thoroughbred
149 breeders.

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

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

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

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

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

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

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

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

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

172 (3) The breeder of the West Virginia bred-foal is not a West
173 Virginia resident and does not qualify under subdivision (2) of
174 this subsection, but either the sire of the West Virginia bred-
175 foal is a West Virginia stallion, or the mare is covered that year
176 exclusively by a West Virginia stallion following the birth of
177 that West Virginia bred-foal.

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

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

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



Chairwoman Senate Committee



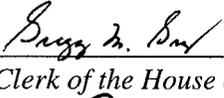
Chairman House Committee

Originating in the House.

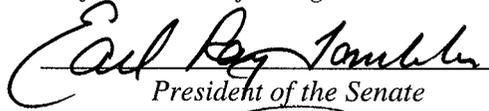
In effect ninety days from passage



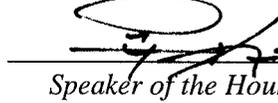
Clerk of the Senate



Clerk of the House of Delegates

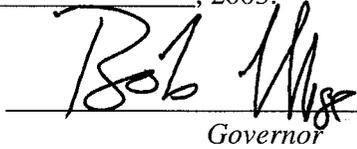


President of the Senate



Speaker of the House of Delegates

The within is disapproved this the 2nd
day of April, 2003.



Governor

PRESENTED TO THE
GOVERNOR

Date 3/26/03

Time 4:05pm