WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2406

(By Delegates DeLong, Tabb, Doyle and Wysong)

Passed March 10, 2007

In Effect Ninety Days from Passage
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H. B. 2406

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[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §19-23-3 of the Code of West Virginia, 1931, as amended, and to amend and reenact §19-23-10 and §19-23-13b of said code, all relating to horse and dog racing generally; providing that in the event a yearling was born in another state and transported to this state, the definition of "Raiser of an accredited West Virginia horse" does not apply to any pari-mutuel racing facility in Jefferson County; providing for a five-year sunset provision relative to the applicability of this definition at any pari-mutuel racing facility in Hancock County; changing formula for distribution of the greyhound breeder development fund moneys to equalize purses by establishment of a points system as approved by the West Virginia Racing Commission; authorizing use of reserve balance funds for a training facility; authorizing the racing commission to annually establish appropriate numbers of West Virginia whelped greyhounds at racetrack kennels; sanctions for not kenneling the minimum number of West Virginia whelped greyhounds; adding accreditation to the qualification of a West Virginia thoroughbred sire; adding a minimum of fourteen stakes horse races at Charles Town for restricted
races; races adding two restricted per racing day where sufficient horses and purse funds are available; funding for additional races at Charles Town; and continuing limitation on certain purse funds at Mountaineer Park.

Be it enacted by the Legislature of West Virginia:

That §19-23-3, §19-23-10 and §19-23-13b of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 23. HORSE AND DOG RACING.


Unless the context in which used clearly requires a different meaning, as used in this article:

(1) "Horse racing" means any type of horse racing, including, but not limited to, thoroughbred racing and harness racing;

(2) "Thoroughbred racing" means flat or running type horse racing in which each horse participating therein is a thoroughbred and is mounted by a jockey;

(3) "Harness racing" means horse racing in which the horses participating therein are harnessed to a sulky, carriage or other vehicle and shall not include any form of horse racing in which the horses are mounted by jockeys;

(4) "Horse race meeting" means the whole period of time for which a license is required by the provisions of section one of this article;

(5) "Dog racing" means any type of dog racing, including, but not limited to, greyhound racing;

(6) "Purse" means any purse, stake or award for which a horse or dog race is run;
"Racing association" or "person" means any individual, partnership, firm, association, corporation or other entity or organization of whatever character or description;

"Applicant" means any racing association making application for a license under the provisions of this article or any person making application for a permit under the provisions of this article, or any person making application for a construction permit under the provisions of this article, as the case may be;

"License" means the license required by the provisions of section one of this article;

"Permit" means the permit required by the provisions of section two of this article;

"Construction permit" means the construction permit required by the provisions of section eighteen of this article;

"Licensee" means any racing association holding a license required by the provisions of section one of this article and issued under the provisions of this article;

"Permit holder" means any person holding a permit required by the provisions of section two of this article and issued under the provisions of this article;

"Construction permit holder" means any person holding a construction permit required by the provisions of section eighteen of this article and issued under the provisions of this article;

"Hold or conduct" includes "assist, aid or abet in holding or conducting";

"Racing commission" means the West Virginia Racing Commission;

"Stewards" means the steward or stewards representing the racing commission, the steward or stewards
representing a licensee and any other steward or stewards, whose duty it is to supervise any horse or dog race meeting, all as may be provided by reasonable rules of the racing commission, and the reasonable rules shall specify the number of stewards to be appointed, the method and manner of their appointment and their powers, authority and duties;

(18) "Pari-mutuel" means a mutuel or collective pool that can be divided among those who have contributed their wagers to one central agency, the odds to be reckoned in accordance to the collective amounts wagered upon each contestant running in a horse or dog race upon which the pool is made, but the total to be divided among the first three contestants on the basis of the number of wagers on these;

(19) "Pari-mutuel clerk" means any employee of a licensed racing association who is responsible for the collection of wagers, the distribution of moneys for winning pari-mutuel tickets, verification of the validity of pari-mutuel tickets and accounting for pari-mutuel funds;

(20) "Pool" means a combination of interests in a joint wagering enterprise or a stake in such enterprise;

(21) "Legitimate breakage" is the percentage left over in the division of a pool;

(22) "To the dime" means that wagers shall be figured and paid to the dime;

(23) "Code" means the Code of West Virginia, one thousand nine hundred thirty-one, as heretofore and hereinafter amended;

(24) "Accredited thoroughbred horse" means a thoroughbred horse that is: (a) Foaled in West Virginia; (b) sired by an accredited West Virginia sire; or (c) as a yearling, finished twelve consecutive months of verifiable residence in the state, except for thirty days’ grace: (A) for the horse to be shipped to and from horse sales where the horse is officially entered in the sales catalogue of a recognized thoroughbred
sales company, or (B) for obtaining veterinary services, documented by veterinary reports;

(25) "Accredited West Virginia sire" is a sire that is permanently domiciled in West Virginia, stands a full season in West Virginia and is registered with West Virginia Thoroughbred Breeders Association;

(26) "Breeder of an accredited West Virginia horse" is the owner of the foal at the time it was born in West Virginia;

(27) "Raiser of an accredited West Virginia horse" is the owner of the yearling at the time it finished twelve consecutive months of verifiable residence in the state. During the period, the raiser will be granted one month of grace for his or her horse to be shipped to and from thoroughbred sales where the horse is officially entered in the sales catalogue of a recognized thoroughbred sales company. In the event the yearling was born in another state and transported to this state, this definition does not apply after the thirty-first day of December, two thousand seven, to any pari-mutuel racing facility located in Jefferson County; nor shall it apply after the thirty-first day of December, two thousand twelve, and thereafter to any pari-mutuel racing facility located in Hancock County. Prior to the horse being shipped out of the state for sales, the raiser must notify the racing commission of his or her intentions;

(28) The "owner of an accredited West Virginia sire" is the owner of record at the time the offspring is conceived;

(29) The "owner of an accredited West Virginia horse" means the owner at the time the horse earned designated purses to qualify for restricted purse supplements provided in section thirteen-b of this article;

(30) “Registered greyhound owner” means an owner of a greyhound that is registered with the National Greyhound Association;

(31) "Fund" means the West Virginia Thoroughbred
Development Fund established in section thirteen-b of this article; and,

(32) "Regular purse" means both regular purses and stakes purses.

§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 conducted 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, 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 calculated at four tenths of one 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 correspondingly 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
Account-West Virginia Greyhound Breeding Development
Fund". The purpose of the fund is to promote better
breeding, a training facility and racing of greyhounds in the
state through awards and purses to bona fide resident
registered greyhound owners of accredited West Virginia
whelped greyhounds. In order to be eligible to receive an
award or purse through the fund, the registered greyhound
owner of the accredited West Virginia whelped greyhound
must be a bona fide resident of this state. To qualify as a
bona fide resident of West Virginia, a registered greyhound owner may not claim residency in any other state. A registered greyhound 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 commission and the West Virginia registered 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.

Supplemental purse awards will be distributed as follows: Supplemental purses shall be paid directly to the registered greyhound owner of an accredited greyhound.

The registered greyhound owner of accredited West Virginia whelped greyhounds that earn points 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.

The total amount of the fund available for the owners'
awards shall be distributed according to the ratio of points 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 point value at all greyhound tracks shall be the same as approved by the racing commission to be effective April 1, 2007.

The registered greyhound 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 greyhound 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 points 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; Provided, That not more than one million dollars from the balance in the purse supplemental fund shall be used for the construction and maintenance of a dog training track and facilities if such be approved by the West Virginia Racing Commission. The West Virginia Racing Commission shall be authorized to promulgate rules governing dog training tracks.

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. To assure breeders of accredited West Virginia whelped greyhounds an opportunity to participate in the West Virginia Greyhound Breeding Development Fund the West Virginia Racing Commission by the first day of July 1 each year shall establish and announce the minimum number of accredited West Virginia whelped greyhounds that greyhound racing kennels at West Virginia dog tracks must have on their racing active list during the calendar year following such action. The minimum number may vary from dog track to dog track. The minimum number shall be established after consultation with the West Virginia Greyhound Owners and Breeders Association and kennel owners and operators. Factors to be considered in establishing this minimum number shall be the number of individually registered accredited West Virginia whelped greyhounds whelped in the previous two years. The number of all greyhounds seeking qualification at each West Virginia dog track, the ratio of active running greyhounds to housed number of greyhounds at each West Virginia dog track, and the size and number of racing kennels at each West Virginia dog track. Any greyhound racing kennel not having the minimum number of accredited West Virginia whelped greyhounds determined by the West Virginia Racing Commission on their active list shall only be permitted to race the maximum allowable number on the active list less the number of accredited West Virginia whelped greyhounds below the established minimum number. Consistent violations of this minimum requirement may for review by the Racing Commission and may constitute cause for denial or revocation of a kennel's racing license. 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 and capital improvement account". The racing commission is authorized to expend the moneys deposited in the administration, promotion and educational and capital improvement 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 administration, promotion and education. The commission shall make an annual report to the Legislature on the status of the administration, 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.

§19-23-13b. 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": Provided, That after the West Virginia Lottery Commission has divided moneys between the West Virginia Thoroughbred Development Fund and the West Virginia Greyhound Breeding Development Fund pursuant to the provisions of sections ten and ten-b, article twenty-two-a, chapter twenty-nine of this code, the Racing Commission shall, beginning the first day of October, two thousand five, deposit the remaining moneys required to be withheld from an association or licensee designated to the Thoroughbred Development Fund under the provisions of subsection (b), section nine of this article, subdivision (3), subsection (e), section twelve-b of this article, subsection (b), section twelve-c of this article, paragraph (B), subdivision (3), subsection (b), section thirteen-c of this article and sections ten and ten-b, article twenty-two-a, chapter twenty-nine of this code into accounts for each thoroughbred racetrack licensee with a banking institution of its choice with a separate account for each association or licensee. Each separate account shall be a special account to be known as
“West Virginia Racing Commission Special Account – West Virginia Thoroughbred Development Fund” and shall name the licensee for which the special account has been established: Provided, however, That the Racing Commission shall deposit all moneys paid into the Thoroughbred Development Fund by a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to the thirty-first day of December, one thousand nine hundred ninety-two from the eighth day of July, two thousand five until the effective date of the amendment to this section passed during the fourth extraordinary session of the seventy-seventh Legislature shall be paid into the purse fund of that thoroughbred racetrack licensee: Provided further, That the moneys paid into the Thoroughbred Development Fund by a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to the thirty-first day of December, one thousand nine hundred ninety-two, shall be transferred into that licensee’s purse fund until the first day of April, two thousand six. Notice of the amount, date and place of the deposits shall be given by the Racing Commission, in writing, to the State Treasurer. The purpose of the funds 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: And provided further, 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 or funds and the account or accounts established in subsection (a) of this section shall operate on an annual basis.

(d) Funds in the Thoroughbred Development Fund or funds in the separate accounts for each association or licensee as provided in subsection (a) of this section shall be expended for awards and purses except as otherwise provided in this section. Annually, the first eight hundred thousand dollars shall be available for distribution for a minimum of fourteen accredited stakes races at a racetrack which 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. The weights for all accredited stakes races shall be weight for age. One of the stakes races shall be the West Virginia Futurity and the second shall be the Frank Gall Memorial Stakes. For the purpose of participating in the West Virginia Futurity only, all mares, starting with the breeding season beginning the first day of February through the thirty-first day of July, two thousand four, and each successive breeding season thereafter shall be bred back that year to an accredited West Virginia stallion only which is registered with the West Virginia Thoroughbred Breeders Association. The accredited stake races shall be chosen by the committee set forth in subsection (f) of this section.

(e) Awards and purses shall be distributed as follows:
The breeders/raisers of accredited thoroughbred horses that earn a purse at a participating 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 participating 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 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.

The owner of an accredited West Virginia sire of an accredited thoroughbred horse that earns a purse in any race at a participating 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 participating races for a particular stallion to the total purses earned by the progeny of all accredited West Virginia stallions in the participating races. However, no sire owner may receive from the fund dedicated to sire owners an amount in excess of thirty-five percent of the accredited earnings for each sire. The bonus referred to in this subdivision shall only be paid on the first one hundred thousand dollars of any purse and not on any amounts in excess of the first one hundred thousand dollars.

The owner of an accredited thoroughbred horse that
earns a purse in any participating 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 participating 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 (f) of this section. Any amount not so used shall revert into the general account of the Thoroughbred Development Fund for each racing association or licensee for distribution in the next year.

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

(f) (1) Each pari-mutuel thoroughbred horse track shall provide at least one restricted race per racing day: Provided, That sufficient horses and funds are available. For purposes of this subsection, there are sufficient horses if there are at least seven single betting interests received for the race. Provided further, That, if sufficient horses and funds are available, any thoroughbred horse racetrack whose licensee participated in the Thoroughbred Development Fund for at least four consecutive calendar years prior to the thirty-first
day of December one thousand nine hundred ninety-two,
shall provide two restricted races per racing day, at least one
of which may be split at the discretion of the racing secretary.
The restricted race required by this section must be included
in the first nine races written in the condition book for that
racing day.

(2) The restricted races established in this subsection
shall be administered by a three-member committee at each
track 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 the West Virginia
Thoroughbred Breeders Association.

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

(A) Moneys placed in the general purse fund: Provided,
That a thoroughbred horseracetrack which did not participate
in the West Virginia Thoroughbred Development fund for a
period of more than four consecutive years prior to the thirty-
first day of December, one thousand nine hundred ninety-
two, may fund restricted races in an amount not to exceed
one million 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".

(4) The racing schedules, purse amounts and types of
races are subject to the approval of the West Virginia Racing
Commission.

(5) If less than seventy-five percent of the restricted races
required by this subsection fail to receive enough entries to
race, the Racing Commission shall, on a quarterly basis, dedicate funds in each fund back to the general purse fund of the racing association or licensee: Provided, That no moneys may be dedicated back to a general purse fund if the dedication would leave less than two hundred fifty thousand dollars in the fund.

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

(h) 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 only by a West Virginia accredited stallion or stallions before December 31 of the calendar year following the birth of that West Virginia bred-foal.

(i) 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 participates in the West Virginia Thoroughbred Development Fund.

(j) Beginning the first day of July, two thousand six, 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 must have a West Virginia Thoroughbred Racing Breeders Program.
(k) The Commission shall, during calendar year two thousand nine, conduct a study of the adequacy of funding provided for the Thoroughbred Development Fund at any thoroughbred racetrack which has not 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, and shall report its findings and recommendations to the Joint Committee on Government and Finance on or before the first day of December, two thousand nine.
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 day of __________, 2007.

Governor
PRESENTED TO THE GOVERNOR

MAR 22 2007

Time 3:45 pm