

HB 4307 (veto)

FILED

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OF THE  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2008



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 4307**

(By Delegates White, Proudfoot and Hrutkay)



Passed March 8, 2008

In Effect Ninety Days from Passage

# **E N R O L L E D**

COMMITTEE SUBSTITUTE

FOR

## **H. B. 4307**

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(BY DELEGATES WHITE, PROUDFOOT AND HRUTKAY)

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[Passed March 8, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §19-23-10 of the Code of West Virginia, 1931, as amended, relating to greyhound racing generally; Greyhound breeding development fund limited to greyhounds wholly or solely owned by bona fide residents of state track facilities; increasing the amount from the Breeder Development Fund that can be used for construction of two training track facilities; increasing the number of possible greyhound training tracks to two; authorizing maintenance costs for training tracks to be paid as fund distributions; not requiring anyone to be a member of an association in order to participate in the Breeder Development Fund; providing for distribution of one half points to West Virginia whelped greyhounds finishing in places fifth through eighth; providing for distribution of one half points to kennels required to race West Virginia whelped greyhounds on their active lists when the dogs finish in fifth, sixth, seventh or eighth place; and requiring up to three races featuring West Virginia bred dogs per race card; and codifying the requirement that the

Greyhound Owners and Breeders Association shall submit an updated registry each month.

*Be it enacted by the Legislature of West Virginia:*

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

**ARTICLE 23. HORSE AND DOG RACING.**

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

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

18 (b) Any racing association licensed by the Racing  
19 Commission to conduct thoroughbred racing and permitting  
20 and conducting pari-mutuel wagering under the provisions of  
21 this article shall, in addition to the daily license tax set forth  
22 in subsection (a) of this section, pay to the Racing

23 Commission, from the commission deducted each day by the  
24 licensee from the pari-mutuel pools on thoroughbred racing  
25 a tax calculated on the total daily contribution of all  
26 pari-mutuel pools conducted or made at any and every  
27 thoroughbred race meeting of the licensee licensed under the  
28 provisions of this article. The tax, on the pari-mutuel pools  
29 conducted or made each day during the months of January,  
30 February, March, October, November and December, shall  
31 be calculated at four tenths of one percent of the pool; and,  
32 on the pari-mutuel pools conducted or made each day during  
33 all other months, shall be calculated at one and four-tenths  
34 percent of the pool: *Provided*, That out of the amount  
35 realized from the three tenths of one percent decrease in the  
36 tax effective for fiscal year one thousand nine hundred  
37 ninety-one and thereafter, which decrease correspondingly  
38 increases the amount of commission retained by the licensee,  
39 the licensee shall annually expend or dedicate: (i) One half  
40 of the realized amount for capital improvements in its barn  
41 area at the track, subject to the Racing Commission's prior  
42 approval of the plans for the improvements; and (ii) the  
43 remaining one half of the realized amount for capital  
44 improvements as the licensee may determine appropriate at  
45 the track. The term "capital improvement" shall be as  
46 defined by the Internal Revenue Code: *Provided, however*,  
47 That any racing association operating a horse racetrack in this  
48 state having an average daily pari-mutuel pool on horse  
49 racing of two hundred eighty thousand dollars or less per day  
50 for the race meetings of the preceding calendar year shall, in  
51 lieu of payment of the pari-mutuel pool tax, calculated as in  
52 this subsection, be permitted to conduct pari-mutuel wagering  
53 at the horse racetrack on the basis of a daily pari-mutuel pool  
54 tax fixed as follows: On the daily pari-mutuel pool not  
55 exceeding three hundred thousand dollars the daily  
56 pari-mutuel pool tax shall be one thousand dollars plus the  
57 otherwise applicable percentage rate imposed by this  
58 subsection of the daily pari-mutuel pool, if any, in excess of

59 three hundred thousand dollars: *Provided further*, That upon  
60 the effective date of the reduction of the daily pari-mutuel  
61 pool tax to one thousand dollars from the former two  
62 thousand dollars, the association or licensee shall daily  
63 deposit five hundred dollars into the special fund for regular  
64 purses established by subdivision (1), subsection (b), section  
65 nine of this article: *And provided further*, That if an  
66 association or licensee qualifying for the foregoing alternate  
67 tax conducts more than one racing performance, each  
68 consisting of up to thirteen races in a calendar day, the  
69 association or licensee shall pay both the daily license tax  
70 imposed in subsection (a) of this section and the alternate tax  
71 in this subsection for each performance: *And provided*  
72 *further*, That a licensee qualifying for the foregoing alternate  
73 tax is excluded from participation in the fund established by  
74 section thirteen-b of this article: *And provided further*, That  
75 this exclusion shall not apply to any thoroughbred racetrack  
76 at which the licensee has participated in the West Virginia  
77 Thoroughbred Development Fund for more than four  
78 consecutive years prior to the thirty-first day of December,  
79 one thousand nine hundred ninety-two.

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

94 (d) Any racing association licensed by the Racing  
95 Commission to conduct dog racing and permitting and  
96 conducting pari-mutuel wagering under the provisions of this  
97 article shall, in addition to the daily license tax required  
98 under subsection (a) of this section, pay to the Racing  
99 Commission, from the commission deducted each day by the  
100 licensee from the pari-mutuel pools on dog racing, as a tax,  
101 four percent of the first fifty thousand dollars or any part  
102 thereof of the pari-mutuel pools, five percent of the next fifty  
103 thousand dollars of the pari-mutuel pools, six percent of the  
104 next one hundred thousand dollars of the pari-mutuel pools,  
105 seven percent of the next one hundred fifty thousand dollars  
106 of the pari-mutuel pools, and eight percent of all over three  
107 hundred fifty thousand dollars wagered each day: *Provided,*  
108 That the licensee shall deduct daily from the pari-mutuel tax  
109 an amount equal to one tenth of one percent of the daily  
110 pari-mutuel pools in dog racing in fiscal year one thousand  
111 nine hundred ninety; fifteen hundredths of one percent in  
112 fiscal year one thousand nine hundred ninety-one; two tenths  
113 of one percent in fiscal year one thousand nine hundred  
114 ninety-two; one quarter of one percent in fiscal year one  
115 thousand nine hundred ninety-three; and three tenths of one  
116 percent in fiscal year one thousand nine hundred ninety-four  
117 and every fiscal year thereafter. The amounts deducted shall  
118 be paid to the Racing Commission to be deposited by the  
119 Racing Commission in a banking institution of its choice in  
120 a special account to be known as "West Virginia Racing  
121 Commission-Special Account-West Virginia Greyhound  
122 Breeding Development Fund". The purpose of the fund is to  
123 promote better breeding, training track facilities and racing of  
124 greyhounds in the state through awards and purses to bona  
125 fide resident registered greyhound owners of accredited West  
126 Virginia whelped greyhounds. In order to participate and be  
127 eligible to receive an award or purse through the fund, the  
128 registered greyhound owner must have an appropriate license  
129 from the West Virginia Racing Commission to race in the

130 State of West Virginia. The registered greyhound dam at the  
131 time of breeding must be wholly or solely owned or leased by  
132 a bona fide resident or residents of the State of West Virginia.  
133 The accredited West Virginia whelped greyhound must be  
134 wholly or solely owned by a bona fide resident or residents  
135 of this state. To qualify as a bona fide resident of West  
136 Virginia, a registered greyhound owner may not claim  
137 residency in any other state. A registered greyhound owner  
138 must prove bona fide residency by providing to the  
139 commission personal income tax returns filed in the State of  
140 West Virginia for the most recent tax year and the three  
141 previous tax years, has real or personal property in this state  
142 on which the owner has paid real or personal property taxes  
143 during the most recent tax year and the previous three tax  
144 years and an affidavit stating that the owner claims no other  
145 state of residency. The Racing Commission shall maintain a  
146 registry for West Virginia bred greyhounds. The moneys  
147 shall be expended by the Racing Commission for purses for  
148 stake races, training track facilities, supplemental purse  
149 awards, administration, promotion and educational programs  
150 involving West Virginia whelped dogs, owned by residents  
151 of this state under rules promulgated by the Racing  
152 Commission. The Racing Commission shall pay out of the  
153 Greyhound Breeding Development Fund to each of the  
154 licensed dog racing tracks the sum of seventy-five thousand  
155 dollars for the fiscal year ending the thirtieth day of June, one  
156 thousand nine hundred ninety-four. The licensee shall  
157 deposit the sum into the special fund for regular purses  
158 established under the provisions of section nine of this article.  
159 The funds shall be expended solely for the purpose of  
160 supplementing regular purses under rules promulgated by the  
161 Racing Commission.

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

165 The registered greyhound owner of accredited West  
166 Virginia whelped greyhounds that earn points at any West  
167 Virginia meet will receive a bonus award calculated at the  
168 end of each month as a percentage of the fund dedicated to  
169 the owners as purse supplements, which shall be a minimum  
170 of fifty percent of the total moneys deposited into the West  
171 Virginia Greyhound Breeding Development Fund monthly.

172 The total amount of the fund available for the owners'  
173 awards shall be distributed according to the ratio of points  
174 earned by an accredited greyhound to the total amount earned  
175 in races by all accredited West Virginia whelped greyhounds  
176 for that month as a percentage of the funds dedicated to the  
177 owners' purse supplements. The point value at all greyhound  
178 tracks shall be the same as approved by the Racing  
179 Commission to be effective April 1, 2007: *Provided*, That  
180 the owners of the West Virginia Whelped Greyhound who  
181 participates in official races at a West Virginia pari-mutuel  
182 dog track and finishes fifth through eighth shall receive one  
183 half point value from the West Virginia Greyhound Breeder  
184 Development Fund per official start: *Provided, however*, That  
185 those kennels who are required to race West Virginia  
186 Whelped Greyhounds on their active list that finish fifth  
187 through eighth shall receive one half point value from the  
188 regular purse fund per official start. The West Virginia  
189 Greyhound Owners and Breeders Association shall submit a  
190 list of any additions or deletions to the numbers of the  
191 registries during the first of each month. The state shall not  
192 require anyone to be a member of an association in order to  
193 participate in the Breeder Development Fund.

194 The registered greyhound owner of an accredited West  
195 Virginia whelped greyhound shall file a purse distribution  
196 form with the Racing Commission for a percentage of his or  
197 her dog's earnings to be paid directly to the registered  
198 greyhound owner or owners of the greyhound. Distribution

199 shall be made on the fifteenth day of each month for the  
200 preceding month's achievements.

201 In no event shall points earned at a meet held at a track  
202 which did not make contributions to the West Virginia  
203 Greyhound Breeder's Development Fund out of the daily  
204 pool on the day the meet was held qualify or count toward  
205 eligibility for supplemental purse awards.

206 Any balance in the purse supplement funds after all  
207 distributions have been made for the year revert to the  
208 general account of the fund for distribution in the following  
209 year: *Provided*, That not more than two million dollars from  
210 the balance in the purse supplemental fund shall be used for  
211 the construction and maintenance of two dog training tracks  
212 and facilities if such be approved by the West Virginia  
213 Racing Commission: *Provided*, That nor more than one  
214 million dollars may be allocated for the construction of each  
215 training track. The West Virginia Racing Commission shall  
216 be authorized to promulgate rules governing dog training  
217 tracks: *Provided further*, That the Racing Commission shall  
218 (1) provide a process in their rules for competitive bidding of  
219 the construction and/or maintenance of the training track, and  
220 (2) set standards to assure that only the actual costs of  
221 construction and maintenance shall be paid out of the  
222 foregoing fund.

223 In an effort to further promote the breeding of quality  
224 West Virginia whelped greyhounds, a bonus purse  
225 supplement shall be established in the amount of fifty  
226 thousand dollars per annum, to be paid in equal quarterly  
227 installments of twelve thousand five hundred dollars per  
228 quarter using the same method to calculate and distribute  
229 these funds as the regular supplemental purse awards. This  
230 bonus purse supplement is for three years only, commencing  
231 on the first day of July, one thousand nine hundred

232 ninety-three, and ending the thirtieth day of June, one  
233 thousand nine hundred ninety-six. This money would come  
234 from the current existing balance in the Greyhound  
235 Development Fund.

236 Each pari-mutuel greyhound track shall provide stakes  
237 races for accredited West Virginia whelped greyhounds:  
238 *Provided*, That each pari-mutuel track shall have one juvenile  
239 and one open stake race annually. Each pari-mutuel dog  
240 track shall provide at least three restricted races for West  
241 Virginia Whelped Greyhounds per race card: *Provided*,  
242 *however*, That sufficient dogs are available. To assure  
243 breeders of accredited West Virginia whelped greyhounds an  
244 opportunity to participate in the West Virginia Greyhound  
245 Breeding Development Fund the West Virginia Racing  
246 Commission by the first day of July each year shall establish  
247 and announce the minimum number of accredited West  
248 Virginia whelped greyhounds that greyhound racing kennels  
249 at West Virginia dog tracks must have on their racing active  
250 list during the calendar year following such action. The  
251 minimum number may vary from dog track to dog track. The  
252 minimum number shall be established after consultation with  
253 the West Virginia Greyhound Owners and Breeders  
254 Association and kennel owners and operators. Factors to be  
255 considered in establishing this minimum number shall be the  
256 number of individually registered accredited West Virginia  
257 whelped greyhounds whelped in the previous two years. The  
258 number of all greyhounds seeking qualification at each West  
259 Virginia dog track, the ratio of active running greyhounds to  
260 housed number of greyhounds at each West Virginia dog  
261 track, and the size and number of racing kennels at each West  
262 Virginia dog track. Any greyhound racing kennel not having  
263 the minimum number of accredited West Virginia whelped  
264 greyhounds determined by the West Virginia Racing  
265 Commission on their active list shall only be permitted to  
266 race the maximum allowable number on the active list less

267 the number of accredited West Virginia whelped greyhounds  
268 below the established minimum number. Consistent  
269 violations of this minimum requirement may for review by  
270 the Racing Commission and may constitute cause for denial  
271 or revocation of a kennel's racing license. The Racing  
272 Commission shall oversee and approve racing schedules and  
273 purse amounts.

274 Ten percent of the deposits into the Greyhound Breeding  
275 Development Fund beginning the first day of July, one  
276 thousand nine hundred ninety-three and continuing each year  
277 thereafter, shall be withheld by the Racing Commission and  
278 placed in a special revenue account hereby created in the  
279 State Treasury called the "administration, promotion and  
280 educational and capital improvement account". The Racing  
281 Commission is authorized to expend the moneys deposited in  
282 the administration, promotion and educational and capital  
283 improvement account at such times and in such amounts as  
284 the commission determines to be necessary for purposes of  
285 administering and promoting the greyhound development  
286 program: *Provided*, That beginning with fiscal year one  
287 thousand nine hundred ninety-five and in each fiscal year  
288 thereafter in which the commission anticipates spending any  
289 money from the account, the commission shall submit to the  
290 executive department during the budget preparation period  
291 prior to the Legislature convening before that fiscal year for  
292 inclusion in the executive budget document and budget bill,  
293 the recommended expenditures, as well as requests of  
294 appropriations for the purpose of administration, promotion  
295 and education. The commission shall make an annual report  
296 to the Legislature on the status of the administration,  
297 promotion and education account, including the previous  
298 year's expenditures and projected expenditures for the next  
299 year.

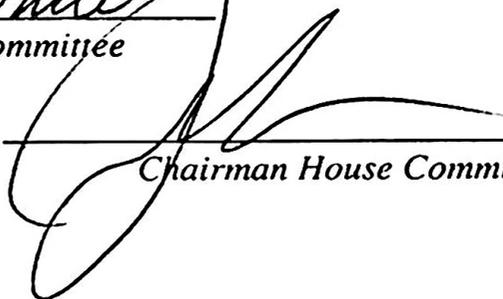
300 The Racing Commission, for the fiscal year one thousand  
301 nine hundred ninety-four only, may expend up to thirty-five  
302 thousand dollars from the West Virginia Greyhound  
303 Breeding Development Fund to accomplish the purposes of  
304 this section without strictly following the requirements in the  
305 previous paragraph.

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

312 (f) Every association or licensee subject to the provisions  
313 of this article, including the changed provisions of sections  
314 nine and ten of this article, shall annually submit to the  
315 Racing Commission and the Legislature financial statements,  
316 including a balance sheet, income statement, statement of  
317 change in financial position and an audit of any electronic  
318 data system used for pari-mutuel tickets and betting, prepared  
319 in accordance with generally accepted auditing standards, as  
320 certified by an experienced public accountant or a certified  
321 public accountant.

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

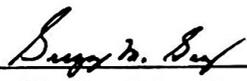
  
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Chairman Senate Committee

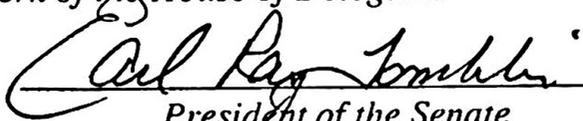
  
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Chairman House Committee

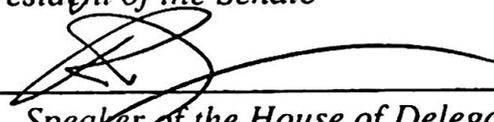
Originating in the House.

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 15<sup>th</sup>  
day of April, 2008.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 20 2008

Time 2:10 pm