WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2011

ENROLLED

Senate Bill No. 413

(By Senators Snyder, Klempa, Yost, McCabe, Unger and D. Facemire)

[Passed March 8, 2011; to take effect July 1, 2011.]
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(BY SENATORS SNYDER, KLEMPA, YOST, MCCABE, UNGER AND D. FACEMIRE)

[Passed March 8, 2011; to take effect July 1, 2011.]

AN ACT to amend and reenact §19-23-5 and §19-23-6 of the Code of West Virginia, 1931, as amended, all relating to changing the title of the West Virginia Racing Commission’s racing secretary to executive director.

Be it enacted by the Legislature of West Virginia:

That §19-23-5 and §19-23-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 19. HORSE AND DOG RACING.

§19-23-5. Executive director and other personnel; qualifications; terms; powers and duties; compensation and expenses.

1 (a) The Racing Commission shall appoint an executive director to represent the Racing Commission who shall have the powers and authority and perform such duties as the Racing Commission directs. The executive director shall preserve at the Racing Commission’s principal office all books, maps, records, documents and other papers of the Racing Commission. The executive director shall, in addition to all other duties imposed upon him or her by the Racing Commission, serve in a liaison capacity between licensees...
and the Racing Commission. The Racing Commission may also employ, direct and define the duties of an assistant executive director and such stenographers, clerks and other office personnel as it deems necessary to carry out the duties imposed upon it under the provisions of this article.

(b) In addition to the employees referred to above, the Racing Commission shall employ, direct and define the duties of a chief clerk, director of security, director of audit, chief chemist, stewards to represent the Racing Commission, supervisors of the pari-mutuel wagering conducted under the provisions of this article, veterinarians, inspectors, accountants, guards and all other employees deemed by the Racing Commission to be essential in connection with any horse or dog race meeting. The director of audit shall be a certified public accountant or experienced public accountant.

(c) No individual shall knowingly be employed or be continued in employment by the Racing Commission in any capacity whatever:

(1) Who directly or indirectly, or in any capacity, owns or has any interest, in any manner, in any racetrack where horse or dog race meetings may be held, including, but not limited to, an interest as owner, lessor, lessee, stockholder or employee;

(2) Who at the time is or has been within one year prior, a member of the Legislature or an elective officer of this state unless he or she is experienced and qualified as a racing official; or

(3) Who has been or shall be convicted of an offense which, under the law of this state or any other state or of the United States of America, constitutes a felony or is a violation of article four, chapter sixty-one of this code. Any steward employed by the Racing Commission or by a licensee shall be a person of integrity and experienced and qualified for such position by the generally accepted practices and customs of horse or dog racing in the United States.
(d) The executive director and all other employees of the Racing Commission shall serve at the will and pleasure of the Racing Commission. The executive director and the other employees referred to in this section as employees of the Racing Commission shall receive such compensation as may be fixed by the Racing Commission within the limit of available funds and shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(e) All compensation and reimbursement for expenses of the members of the Racing Commission, the executive director and all other employees of the Racing Commission shall be paid from the funds in the hands of the State Treasurer collected under the provisions of this article and shall be itemized in the budget in the same manner as all other departments of state government. No reimbursement for expenses incurred shall be paid unless an itemized account, under oath, is first filed with the State Auditor.


1 The Racing Commission has full jurisdiction over and shall supervise all horse race meetings, all dog race meetings and all persons involved in the holding or conducting of horse or dog race meetings and, in this regard, it has plenary power and authority:

6 (1) To investigate applicants and determine the eligibility of the applicants for a license or permit or construction permit under the provisions of this article;

9 (2) To fix, from time to time, the annual fee to be paid to the Racing Commission for any permit required under the provisions of section two of this article;

12 (3) To promulgate reasonable rules implementing and making effective the provisions of this article and the powers and authority conferred and the duties imposed upon the Racing Commission under the provisions of this article, including, but not limited to, reasonable rules under which
all horse races, dog races, horse race meetings and dog race
meetings shall be held and conducted, all of which reason-
able rules shall be promulgated in accordance with the
provisions of article three, chapter twenty-nine-a of this
code except that the Racing Commission shall promulgate
separate rules, in accordance with article three, chapter
twenty-nine-a, pertaining to the kinds of legal combination
wagers which may be placed in connection with the pari-
mutuel system of wagering authorized by this article;

(4) To register colors and assumed names and to fix, from
time to time, the annual fee to be paid to the Racing Commiss-
ion for any such registration;

(5) To fix and regulate the minimum purse to be offered
during any horse or dog race meeting;

(6) To fix a minimum and a maximum number of horse
races or dog races to be held on any respective racing day;

(7) To enter the office, horse racetrack, dog racetrack,
kennel, facilities and other places of business of any licensee
to determine whether the provisions of this article and its
reasonable rules are being complied with, and for this
purpose, the Racing Commission, its executive director,
representatives and employees may visit, investigate and
have free access to any such office, horse racetrack, dog
racetrack, kennel, facilities and other places of business;

(8) To investigate alleged violations of the provisions of
this article, its reasonable rules, orders and final decisions
and to take appropriate disciplinary action against any
licensee or permit holder or construction permit holder for a
violation or institute appropriate legal action for enforce-
ment or take disciplinary action and institute legal action;

(9) By reasonable rules, to authorize stewards, starters and
other racing officials to impose reasonable fines or other
sanctions upon a person connected with or involved in any
horse or dog racing or any horse or dog race meeting and to
authorize stewards to rule off the grounds of any horse or
dog racetrack any tout, bookmaker or other undesirable
individual determined inimical to the best interests of horse
and dog racing or the pari-mutuel system of wagering in
connection therewith;

(10) To require at any time the removal of any racing
official or racing employee of any licensee for the violation
of any provision of this article, any reasonable rule of the
Racing Commission or for any fraudulent practice;

(11) To acquire, establish, maintain and operate, or to
provide by contract for the maintenance and operation of, a
testing laboratory and related facilities for the purpose of
conducting saliva, urine and other tests on the horse or dog
or horses or dogs run or to be run in any horse or dog race
meeting and to purchase all equipment and supplies consid-
ered necessary or desirable in connection with the acquisi-
tion, establishment, maintenance and operation of any
testing laboratory and related facilities and all such tests;

(12) To hold up, in any disputed horse or dog race, the
payment of any purse pending a final determination of the
results thereof;

(13) To require each licensee to file an annual balance
sheet and profit and loss statement pertaining to the li-
censee's horse or dog racing activities in this state together
with a list of each licensee's stockholders or other persons
having any beneficial interest in the horse or dog racing
activities of the licensee;

(14) To issue subpoenas for the attendance of witnesses and
subpoenas duces tecum for the production of any books,
records and other pertinent documents and to administer
oaths and affirmations to such witnesses, whenever, in the
judgment of the Racing Commission, it is necessary to do so
for the effective discharge of its duties under the provisions
of this article;

(15) To keep accurate and complete records of its proceed-
ings and to certify the same as may be appropriate;
(16) To take any other action that may be reasonable or appropriate to effectuate the provisions of this article and its reasonable rules;

(17) To provide breeders' awards, purse supplements and moneys for capital improvements at racetracks in compliance with section thirteen-b of this article; and

(18) To mediate on site, upon request of a party, all disputes existing between the racetrack licensees located in this state and representatives of a majority of the horse owners and trainers licensed at the track which threaten to disrupt any scheduled racing event or events. The Racing Commission shall, upon the request of a party, mediate on site all disputes existing between racetrack licensees and representatives of pari-mutuel clerks which threaten to disrupt any scheduled racing event or events. When a request for mediation is made, the commission shall designate from among its members one person to act as mediator in each dispute that arises. Each opposing party involved in any dispute shall negotiate in good faith with the goal of reaching a fair and mutual resolution. The mediator may issue recommendations designed to assist each side toward reaching a fair compromise. No owner or operator or any horse owner or trainer or any pari-mutuel clerk licensed at the track is required to abide by any recommendation made by any mediator acting pursuant to this subsection.

The Racing Commission shall not interfere in the internal business or internal affairs of any licensee.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 2011.

Clerk of the Senate

Clerk of the House of Delegates

Acting President of the Senate

Speaker of the House of Delegates

The within is approved this the 18th Day of March, 2011.

Governor
PRESENTED TO THE GOVERNOR

MAR 16 2011

Time 9:45 AM