

SB542

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013



ENROLLED
COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 542

(SENATORS SNYDER, KESSLER (MR. PRESIDENT), BARNES,
BLAIR, EDGELL, FACEMIRE, FITZSIMMONS, GREEN, D. HALL,
KIRKENDOLL, LAIRD, MILLER, UNGER AND YOST,
ORIGINAL SPONSORS)

[PASSED APRIL 11, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

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original sponsors)

[Passed April 11, 2013; in effect ninety days from passage.]

AN ACT to amend and reenact §19-23-13b of the Code of West Virginia, 1931, as amended, relating to restricted races at pari-mutuel thoroughbred horse race tracks; permitting up to two restricted races at certain tracks if there are at least seven single betting interests; permitting a third restricted race at certain tracks if there are at least nine single betting interests; and eliminating a provision concerning if less than seventy-five percent of the restricted races fail to receive enough entries to race.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 23. HORSE AND DOG RACING.

§19-23-13b. West Virginia Thoroughbred Development Fund; distribution; restricted races; nonrestricted purse supplements; preference for West Virginia accredited thoroughbreds.

1 (a) The Racing Commission shall deposit moneys
2 required to be withheld by an association or licensee in
3 subsection (b), section nine of this article in a banking
4 institution of its choice in a special account to be known as
5 West Virginia Racing Commission Special Account – West
6 Virginia Thoroughbred Development Fund: *Provided*, That
7 after the West Virginia Lottery Commission has divided
8 moneys between the West Virginia Thoroughbred
9 Development Fund and the West Virginia Greyhound
10 Breeding Development Fund, pursuant to the provisions of
11 sections ten and ten-b, article twenty-two-a, chapter twenty-
12 nine of this code, the Racing Commission shall, beginning
13 October 1, 2005, deposit the remaining moneys required to be
14 withheld from an association or licensee designated to the
15 Thoroughbred Development Fund under the provisions of
16 subsection (b), section nine of this article, subdivision (3),
17 subsection (e), section twelve-b of this article, subsection (b),
18 section twelve-c of this article, paragraph (B), subdivision
19 (3), subsection (b), section thirteen-c of this article and
20 sections ten and ten-b, article twenty-two-a, chapter twenty-
21 nine of this code into accounts for each thoroughbred
22 racetrack licensee with a banking institution of its choice with
23 a separate account for each association or licensee. Each
24 separate account shall be a special account to be known as
25 West Virginia Racing Commission Special Account – West
26 Virginia Thoroughbred Development Fund and shall name
27 the licensee for which the special account has been
28 established: *Provided, however*, That the Racing Commission
29 shall deposit all moneys paid into the Thoroughbred
30 Development Fund by a thoroughbred racetrack licensee that
31 did not participate in the Thoroughbred Development Fund

32 for at least four consecutive calendar years prior to December
33 31, 1992, from July 8, 2005, until the effective date of the
34 amendment to this section passed during the fourth
35 extraordinary session of the seventy-seventh Legislature shall
36 be paid into the purse fund of that thoroughbred racetrack
37 licensee: *Provided further*, That the moneys paid into the
38 Thoroughbred Development Fund by a thoroughbred
39 racetrack licensee that did not participate in the
40 Thoroughbred Development Fund for at least four
41 consecutive calendar years prior to December 31, 1992, shall
42 be transferred into that licensee's purse fund until April 1,
43 2006. Notice of the amount, date and place of the deposits
44 shall be given by the Racing Commission, in writing, to the
45 State Treasurer. The purpose of the funds is to promote
46 better breeding and racing of thoroughbred horses in the state
47 through awards and purses for accredited breeders/raisers,
48 sire owners and thoroughbred race horse owners: *Provided*,
49 That five percent of the deposits required to be withheld by
50 an association or licensee in subsection (b), section nine of
51 this article shall be placed in a special revenue account
52 hereby continued in the State Treasury called the
53 Administration and Promotion Account: *Provided, however*,
54 That four and one-half percent of the deposits into the
55 Thoroughbred Development Fund shall be placed in the
56 Administration and Promotion Account, except that of this
57 percentage, no more than \$305,000 shall be placed in the
58 account in any year.

59 (b) The Racing Commission is authorized to expend the
60 moneys deposited in the administration and promotion
61 account at times and in amounts as the commission
62 determines to be necessary for purposes of administering and
63 promoting the thoroughbred development program: *Provided*,
64 That during any fiscal year in which the commission
65 anticipates spending any money from the account, the
66 commission shall submit to the executive department during

67 the budget preparation period prior to the Legislature
68 convening before that fiscal year for inclusion in the
69 executive budget document and budget bill the recommended
70 expenditures, as well as requests of appropriations for the
71 purpose of administration and promotion of the program.
72 The commission shall make an annual report to the
73 Legislature on the status of the administration and promotion
74 account, including the previous year's expenditures and
75 projected expenditures for the next year.

76 (c) The fund or funds and the account or accounts
77 established in subsection (a) of this section shall operate on
78 an annual basis.

79 (d) Funds in the Thoroughbred Development Fund or
80 funds in the separate accounts for each association or licensee
81 as provided in subsection (a) of this section shall be expended
82 for awards and purses except as otherwise provided in this
83 section. Annually, the first \$800,000 shall be available for
84 distribution for a minimum of fourteen accredited stakes
85 races at a racetrack which has participated in the West
86 Virginia Thoroughbred Development Fund for a period of
87 more than four consecutive calendar years prior to December
88 31, 1992. The weights for all accredited stakes races shall be
89 weight for age. One of the stakes races shall be the West
90 Virginia Futurity and the second shall be the Frank Gall
91 Memorial Stakes. For the purpose of participating in the
92 West Virginia Futurity only, all mares, starting with the
93 breeding season beginning February 1 through July 31, 2004,
94 and each successive breeding season thereafter, shall be bred
95 back that year to an accredited West Virginia stallion only
96 which is registered with the West Virginia Thoroughbred
97 Breeders Association. The accredited stake races shall be
98 chosen by the committee set forth in subsection (f) of this
99 section.

100 (e) Awards and purses shall be distributed as follows:

101 (1) The breeders/raisers of accredited thoroughbred
102 horses that earn a purse at a participating West Virginia meet
103 shall receive a bonus award calculated at the end of the year
104 as a percentage of the fund dedicated to the breeders/raisers,
105 which shall be sixty percent of the fund available for
106 distribution in any one year. The total amount available for
107 the breeders'/raisers' awards shall be distributed according to
108 the ratio of purses earned by an accredited race horse to the
109 total amount earned in the participating races by all
110 accredited race horses for that year as a percentage of the
111 fund dedicated to the breeders/raisers. However, no
112 breeder/raiser may receive from the fund dedicated to
113 breeders'/raisers' awards an amount in excess of the earnings
114 of the accredited horse at West Virginia meets. In addition,
115 should a horse's breeder and raiser qualify for the same
116 award on the same horse, they will each be awarded one half
117 of the proceeds. The bonus referred to in this subdivision
118 may only be paid on the first \$100,000 of any purse and not
119 on any amounts in excess of the first \$100,000.

120 (2) The owner of an accredited West Virginia sire of an
121 accredited thoroughbred horse that earns a purse in any race
122 at a participating West Virginia meet shall receive a bonus
123 award calculated at the end of the year as a percentage of the
124 fund dedicated to sire owners, which shall be fifteen percent
125 of the fund available for distribution in any one year. The
126 total amount available for the sire owners' awards shall be
127 distributed according to the ratio of purses earned by the
128 progeny of accredited West Virginia stallions in the
129 participating races for a particular stallion to the total purses
130 earned by the progeny of all accredited West Virginia
131 stallions in the participating races. However, no sire owner
132 may receive from the fund dedicated to sire owners an
133 amount in excess of thirty-five percent of the accredited

134 earnings for each sire. The bonus referred to in this
135 subdivision shall only be paid on the first \$100,000 of any
136 purse and not on any amounts in excess of the first \$100,000.

137 (3) The owner of an accredited thoroughbred horse that
138 earns a purse in any participating race at a West Virginia
139 meet shall receive a restricted purse supplement award
140 calculated at the end of the year, which shall be twenty-five
141 percent of the fund available for distribution in any one year,
142 based on the ratio of the earnings in the races of a particular
143 race horse to the total amount earned by all accredited race
144 horses in the participating races during that year as a
145 percentage of the fund dedicated to purse supplements.
146 However, the owners may not receive from the fund
147 dedicated to purse supplements an amount in excess of thirty-
148 five percent of the total accredited earnings for each
149 accredited race horse. The bonus referred to in this
150 subdivision shall only be paid on the first \$100,000 of any
151 purse and not on any amounts in excess of the first \$100,000.

152 (4) In no event may purses earned at a meet held at a
153 track which did not make a contribution to the Thoroughbred
154 Development Fund out of the daily pool on the day the meet
155 was held qualify or count toward eligibility for an award
156 under this subsection.

157 (5) Any balance in the breeders/raisers, sire owners and
158 purse supplement funds after yearly distributions shall first be
159 used to fund the races established in subsection (f) of this
160 section. Any amount not so used shall revert into the general
161 account of the Thoroughbred Development Fund for each
162 racing association or licensee for distribution in the next year.

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

165 (f)(1) Each pari-mutuel thoroughbred horse track shall
166 provide at least one restricted race per racing day: *Provided*,
167 That sufficient horses and funds are available. For purposes
168 of the one restricted race required by this subdivision, there
169 are sufficient horses if there are at least seven single betting
170 interests received for the race: *Provided, however*, That, if
171 sufficient horses and funds are available, any thoroughbred
172 horse racetrack whose licensee participated in the
173 Thoroughbred Development Fund for at least four
174 consecutive calendar years prior to December 31, 1992, shall
175 provide three restricted races per racing day, at least one of
176 which may be split at the discretion of the racing secretary.
177 For the purposes of a second restricted race there shall be at
178 least seven single betting interests and for purposes of a third
179 restricted race there must be at least nine single betting
180 interests in one of the restricted races run that day. The
181 restricted race required by this section must be included in
182 the first nine races written in the condition book for that
183 racing day.

184 (2) The restricted races established in this subsection
185 shall be administered by a three-member committee at each
186 track consisting of:

187 (A) The racing secretary at each track;

188 (B) A member appointed by the authorized representative
189 of a majority of the owners and trainers at the thoroughbred
190 track; and

191 (C) A member appointed by the West Virginia
192 Thoroughbred Breeders Association.

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

195 (A) Moneys placed in the general purse fund: *Provided,*
196 That a thoroughbred horse racetrack which did not participate
197 in the West Virginia Thoroughbred Development Fund for a
198 period of more than four consecutive years prior to December
199 31, 1992, may fund restricted races in an amount not to
200 exceed \$1,000,000 per year.

201 (B) Moneys as provided in subdivision (5), subsection (e)
202 of this section, which shall be placed in a special fund called
203 the West Virginia Accredited Race Fund.

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

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

209 (h) To qualify for the West Virginia Accredited Race
210 Fund, the breeder must qualify under one of the following:

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

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

216 (3) The breeder of the West Virginia-bred foal is not a
217 West Virginia resident and does not qualify under
218 subdivision (2) of this subsection, but either the sire of the
219 West Virginia-bred foal is a West Virginia stallion, or the
220 mare is covered only by a West Virginia accredited stallion
221 or stallions before December 31 of the calendar year
222 following the birth of that West Virginia-bred foal.

223 (i) From July 1, 2001, West Virginia accredited
224 thoroughbred horses have preference for entry in all
225 accredited races at a thoroughbred race track at which the
226 licensee participates in the West Virginia Thoroughbred
227 Development Fund.

228 (j) Beginning July 1, 2006, any racing association
229 licensed by the Racing Commission to conduct thoroughbred
230 racing and permitting and conducting pari-mutuel wagering
231 under the provisions of this article must have a West Virginia
232 Thoroughbred Racing Breeders Program.

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

Rocky Fajana
.....
Member Chairman Senate Committee

Danny Wells
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Joseph McMinard
.....
Clerk of the Senate

Suzey A. Smith
.....
Clerk of the House of Delegates

Joseph H. ...
.....
President of the Senate

Paul ...
.....
Speaker of the House of Delegates

FILED
2013 APR 30 PM 4:56
CLERK OF STATE

The within *is approved* this the *30th*
Day of *April*, 2013.

Carol Roy Tomlin
.....
Governor

PRESENTED TO THE GOVERNOR

APR 25 2013

Time 3:35 p