

H. B. 2145

(By Delegate Doyle)

[Introduced January 12, 2011; referred to the

Committee on Energy, Industry and Labor, Economic Development and

Small Business then the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §23-2-1 and §23-2-1a of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-22A-10 of said code, all relating to providing Workers' Compensation coverage for certain employees who perform duties attendant to racing activities.

Be it enacted by the Legislature of West Virginia:

That §23-2-1 and §23-2-1a of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §29-22A-10 of said code be amended and reenacted, all to read as follows:

CHAPTER 23. WORKERS' COMPENSATION.

ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAPTER;

EXTRATERRITORIAL COVERAGE.

§23-2-1. Employers subject to chapter; elections not to provide

1 **certain coverages; notices; filing of business**
2 **registration certificates.**

3 (a) The State of West Virginia and all governmental agencies
4 or departments created by it, including county boards of education,
5 political subdivisions of the state, any volunteer fire department
6 or company and other emergency service organizations as defined by
7 article five, chapter fifteen of this code, and all persons, firms,
8 associations and corporations regularly employing another person or
9 persons for the purpose of carrying on any form of industry,
10 service or business in this state, are employers within the meaning
11 of this chapter and are required to subscribe to and pay premium
12 taxes into the Workers' Compensation Fund for the protection of
13 their employees and are subject to all requirements of this chapter
14 and all rules prescribed by the Workers' Compensation Commission
15 with reference to rate, classification and premium payment:
16 *Provided*, That rates will be adjusted by the commission to reflect
17 the demand on the compensation fund by the covered employer.

18 (b) The following employers are not required to subscribe to
19 the fund, but may elect to do so:

20 (1) Employers of employees in domestic services;

21 (2) Employers of five or fewer full-time employees in
22 agricultural service;

23 (3) Employers of employees while the employees are employed
24 without the state except in cases of temporary employment without

1 the state;

2 (4) Casual employers. An employer is a casual employer when
3 the number of his or her employees does not exceed three and the
4 period of employment is temporary, intermittent and sporadic in
5 nature and does not exceed ten calendar days in any calendar
6 quarter;

7 (5) Churches;

8 (6) Employers engaged in organized professional sports
9 activities, ~~including~~ except that employers of trainers, ~~and~~
10 jockeys, ~~engaged in thoroughbred horse racing~~ exercise riders and
11 any other employees of a person or entity engaged in racing
12 activities at a horse or dog racetrack licensed in this state are
13 required to subscribe and obtain Workers' Compensation coverage for
14 those employees; or

15 (7) Any volunteer rescue squad or volunteer police auxiliary
16 unit organized under the auspices of a county commission,
17 municipality or other government entity or political subdivision;
18 volunteer organizations created or sponsored by government
19 entities, political subdivisions; or area or regional emergency
20 medical services boards of directors in furtherance of the purposes
21 of the Emergency Medical Services Act of article four-c, chapter
22 sixteen of this code: *Provided*, That if any of the employers
23 described in this subdivision have paid employees, to the extent of
24 those paid employees, the employer shall subscribe to and pay

1 premium taxes into the Workers' Compensation Fund based upon the
2 gross wages of the paid employees but with regard to the
3 volunteers, the coverage remains optional.

4 (8) Any employer whose employees are eligible to receive
5 benefits under the federal Longshore and Harbor Workers'
6 Compensation Act, 33 U.S.C. §901, *et seq.*, but only for those
7 employees eligible for those benefits.

8 (c) Notwithstanding any other provision of this chapter to the
9 contrary, whenever there are churches in a circuit which employ one
10 individual clergyman and the payments to the clergyman from the
11 churches constitute his or her full salary, such circuit or group
12 of churches may elect to be considered a single employer for the
13 purpose of premium payment into the Workers' Compensation Fund.

14 (d) Employers who are not required to subscribe to the
15 Workers' Compensation Fund may voluntarily choose to subscribe to
16 and pay premiums into the fund for the protection of their
17 employees and in that case are subject to all requirements of this
18 chapter and all rules ~~and regulations~~ prescribed by the commission
19 with reference to rates, classifications and premium payments and
20 shall afford to them the protection of this chapter, including
21 section six of this article, but the failure of the employers to
22 choose to subscribe to and to pay premiums into the fund shall not
23 impose any liability upon them other than any liability that would
24 exist notwithstanding the provisions of this chapter.

1 (e) Any foreign corporation employer whose employment in this
2 state is to be for a definite or limited period which could not be
3 considered "regularly employing" within the meaning of this section
4 may choose to pay into the Workers' Compensation Fund the premiums
5 provided ~~for~~ in this section, and at the time of making application
6 to the Workers' Compensation Commission, the employer shall furnish
7 a statement under oath showing the probable length of time the
8 employment will continue in this state, the character of the work,
9 an estimate of the monthly payroll and any other information which
10 may be required by the commission. At the time of making
11 application the employer shall deposit with the commission to the
12 credit of the Workers' Compensation Fund the amount required by
13 section five of this article. That amount shall be returned to the
14 employer if the employer's application is rejected by the
15 commission. Upon notice to the employer of the acceptance of his
16 or her application by the commission, he or she is an employer
17 within the meaning of this chapter and subject to all of its
18 provisions.

19 (f) Any foreign corporation employer choosing to comply with
20 the provisions of this chapter and to receive the benefits under
21 this chapter shall, at the time of making application to the
22 commission in addition to other requirements of this chapter,
23 furnish the commission with a certificate from the Secretary of
24 State, where the certificate is necessary, showing that it has

1 complied with all the requirements necessary to enable it legally
2 to do business in this state and no application of a foreign
3 corporation employer shall be accepted by the commission until the
4 certificate is filed.

5 (g) The following employers may elect not to provide coverage
6 to certain of their employees under the provisions of this chapter:

7 (1) Any political subdivision of the state including county
8 commissions and municipalities, boards of education, or emergency
9 services organizations organized under the auspices of a county
10 commission may elect not to provide coverage to any elected
11 official. The election not to provide coverage does not apply to
12 individuals in appointed positions or to any other employees of the
13 political subdivision;

14 (2) If an employer is a partnership, sole proprietorship,
15 association or corporation, the employer may elect not to include
16 as an "employee" within this chapter, any member of the
17 partnership, the owner of the sole proprietorship or any corporate
18 officer or member of the board of directors of the association or
19 corporation. The officers of a corporation or an association shall
20 consist of a president, a vice president, a secretary and a
21 treasurer, each of whom is elected by the board of directors at the
22 time and in the manner prescribed by the bylaws. Other officers
23 and assistant officers that are considered necessary may be elected
24 or appointed by the board of directors or chosen in any other

1 manner prescribed by the bylaws and, if elected, appointed or
2 chosen, the employer may elect not to include the officer or
3 assistant officer as an "employee" within the meaning of this
4 chapter: *Provided*, That except for those persons who are members
5 of the board of directors or who are the corporation's or
6 association's president, vice president, secretary and treasurer
7 and who may be excluded by reason of their positions from the
8 benefits of this chapter even though their duties,
9 responsibilities, activities or actions may have a dual capacity of
10 work which is ordinarily performed by an officer and also of work
11 which is ordinarily performed by a worker, an administrator or an
12 employee who is not an officer, no other officer or assistant
13 officer who is elected or appointed shall be excluded by election
14 from coverage or be denied the benefits of this chapter merely
15 because he or she is an officer or assistant officer if, as a
16 matter of fact:

17 (A) He or she is engaged in a dual capacity of having the
18 duties and responsibilities for work ordinarily performed by an
19 officer and also having duties and work ordinarily performed by a
20 worker, administrator or employee who is not an officer;

21 (B) He or she is engaged ordinarily in performing the duties
22 of a worker, an administrator or an employee who is not an officer
23 and receives pay for performing the duties in the capacity of an
24 employee; or

1 (C) He or she is engaged in an employment palpably separate
2 and distinct from his or her official duties as an officer of the
3 association or corporation;

4 (3) If an employer is a limited liability company, the
5 employer may elect not to include as an "employee" within this
6 chapter a total of no more than four persons, each of whom are
7 acting in the capacity of manager, officer or member of the
8 company.

9 (h) In the event of election under subsection (g) of this
10 section, the employer shall serve upon the commission written
11 notice naming the positions not to be covered and shall not include
12 the "employee's" remuneration for premium purposes in all future
13 payroll reports, and the partner, proprietor or corporate or
14 executive officer is not considered an employee within the meaning
15 of this chapter after the notice has been served. Notwithstanding
16 the provisions of subsection (g), section five of this article, if
17 an employer is delinquent or in default or has not subscribed to
18 the fund even though it is obligated to do so under the provisions
19 of this article, any partner, proprietor or corporate or executive
20 officer shall not be covered and shall not receive the benefits of
21 this chapter.

22 (I) "Regularly employing" or "regular employment" means
23 employment by an employer which is not a casual employer under this
24 section.

1 (j) Upon the termination of the commission, the criteria
2 governing which employer shall or may subscribe to the Workers'
3 Compensation Commission shall also govern which employers shall or
4 may purchase workers' compensation insurance under article two-c of
5 this chapter.

6 **§23-2-1a. Employees subject to chapter.**

7 (a) Employees subject to this chapter are all persons in the
8 service of employers and employed by them for the purpose of
9 carrying on the industry, business, service or work in which they
10 are engaged, including, but not limited to:

11 (1) Persons regularly employed in the state whose duties
12 necessitate employment of a temporary or transitory nature by the
13 same employer without the state;

14 (2) Every person in the service of the state or of any
15 political subdivision or agency thereof, under any contract of
16 hire, express or implied, and every appointed official or officer
17 thereof while performing his or her official duties;

18 (3) Checkweighmen employed according to law;

19 (4) All members of rescue teams assisting in mine accidents
20 with the consent of the owner who, in such case, shall be deemed
21 the employer, or at the direction of the Director of the Department
22 of Mines;

23 (5) All forest firefighters who, under the supervision of the
24 Director of the ~~Department~~ Division of Natural Resources or his or

1 her designated representative, assist in the prevention,
2 confinement and suppression of any forest fire; ~~and~~

3 (6) Students while participating in a work-based learning
4 experience with an employer approved as a part of the curriculum by
5 the county board. The county board shall be the employer of record
6 of students while participating in unpaid work-based experiences
7 off school premises with employers other than the county board.
8 Students in unpaid work-based learning experiences shall be
9 considered to be paid the amount of wages so as to provide the
10 minimum Workers' Compensation weekly benefits required by section
11 six, article four of this chapter; and

12 (7) All employees of employers of trainers, jockeys, exercise
13 riders and any other employees of a person or entity engaged in
14 racetrack activities at a horse or dog racetrack licensed in this
15 state.

16 (b) The right to receive compensation under this chapter shall
17 not be affected by the fact that a minor is employed or is
18 permitted to be employed in violation of the laws of this state
19 relating to the employment of minors, or that he or she obtained
20 his or her employment by misrepresenting his or her age.

21 **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

22 **ARTICLE 22A. RACETRACK VIDEO LOTTERY.**

23 **§29-22A-10. Accounting and reporting; commission to provide**

1 communications protocol data; distribution of net
2 terminal income; remittance through electronic
3 transfer of funds; establishment of accounts and
4 nonpayment penalties; commission control of
5 accounting for net terminal income; settlement of
6 accounts; manual reporting and payment may be
7 required; request for reports; examination of
8 accounts and records.

9 (a) The commission shall provide to manufacturers, or
10 applicants applying for a manufacturer's permit, the protocol
11 documentation data necessary to enable the respective
12 manufacturer's video lottery terminals to communicate with the
13 commission's central computer for transmitting auditing program
14 information and for activation and disabling of video lottery
15 terminals.

16 (b) The gross terminal income of a licensed racetrack shall be
17 remitted to the commission through the electronic transfer of
18 funds. Licensed racetracks shall furnish to the commission all
19 information and bank authorizations required to facilitate the
20 timely transfer of moneys to the commission. Licensed racetracks
21 must provide the commission thirty days' advance notice of any
22 proposed account changes in order to assure the uninterrupted
23 electronic transfer of funds. From the gross terminal income

1 remitted by the licensee to the commission, the commission shall
2 deduct an amount sufficient to reimburse the commission for its
3 actual costs and expenses incurred in administering racetrack video
4 lottery at the licensed racetrack, and the resulting amount after
5 the deduction is the net terminal income. The amount deducted for
6 administrative costs and expenses of the commission may not exceed
7 four percent of gross terminal income: *Provided*, That any amounts
8 deducted by the commission for its actual costs and expenses that
9 exceeds its actual costs and expenses shall be deposited into the
10 State Lottery Fund. For the fiscal years ending June 13, 2006,
11 2007, 2008, 2009, 2010 and 2011 the term "actual costs and
12 expenses" shall include transfers of no more than \$20 million in
13 any year to the Revenue Center Construction Fund created by
14 subsection (1), section eighteen, article twenty-two of this
15 chapter for the purpose of constructing a state office building.
16 For all fiscal years beginning on or after July 1, 2001, the
17 commission ~~shall~~ may not receive an amount of gross terminal income
18 in excess of the amount of gross terminal income received during
19 the fiscal year ending on June 13, 2001, but four percent of any
20 amount of gross terminal income received in excess of the amount of
21 gross terminal income received during the fiscal year ending on
22 June 13, 2001, shall be deposited into the fund established in
23 section eighteen-a, article twenty-two of this chapter.

24 (c) Net terminal income shall be divided as set out in this

1 subsection. For all fiscal years beginning on or after June 1,
2 2001, any amount of net terminal income received in excess of the
3 amount of net terminal income received during the fiscal year
4 ending on June 13, 2001, shall be divided as set out in section
5 ten-b of this article. The licensed racetrack's share is in lieu
6 of all lottery agent commissions and is considered to cover all
7 costs and expenses required to be expended by the licensed
8 racetrack in connection with video lottery operations. The
9 division shall be made as follows:

10 (1) The commission shall receive thirty percent of net
11 terminal income, which shall be paid into the State Lottery Fund as
12 provided in section ten-a of this article;

13 (2) Until July 1, 2005, fourteen percent of net terminal
14 income at a licensed racetrack shall be deposited in the special
15 fund established by the licensee, and used for payment of regular
16 purses in addition to other amounts provided for in article twenty-
17 three, chapter nineteen of this code, on and after July 1, 2005,
18 the rate shall be seven percent of net terminal income;

19 (3) The county where the video lottery terminals are located
20 shall receive two percent of the net terminal income: *Provided,*
21 That:

22 (A) Beginning July 1, 1999, and thereafter, any amount in
23 excess of the two percent received during the fiscal year ~~one~~
24 ~~thousand nine hundred ninety-nine~~ by a county in which a racetrack

1 is located that has participated in the West Virginia thoroughbred
2 development fund since on or before June 1, 1999, shall be divided
3 as follows:

4 (I) The county shall receive fifty percent of the excess
5 amount; and

6 (ii) The municipalities of the county shall receive fifty
7 percent of the excess amount, said fifty percent to be divided
8 among the municipalities on a per capita basis as determined by the
9 most recent decennial United States census of population; and

10 (B) Beginning the July 1, 1999, and thereafter, any amount in
11 excess of the two percent received during the fiscal year 1999 by
12 a county in which a racetrack other than a racetrack described in
13 paragraph (A) of this proviso is located and where the racetrack
14 has been located in a municipality within the county since on or
15 before January 1, 1999, shall be divided, if applicable, as
16 follows:

17 (I) The county shall receive fifty percent of the excess
18 amount; and

19 (ii) The municipality shall receive fifty percent of the
20 excess amount; and

21 (C) This proviso shall not affect the amount to be received
22 under this subdivision by any other county other than a county
23 described in paragraph (A) or (B) of this proviso;

24 (4) One percent of net terminal income shall be paid for and

1 on behalf of all employees of the licensed racing association by
2 making a deposit into a special fund to be established by the
3 Racing Commission to be used for payment into the pension plan for
4 all employees of the licensed racing association;

5 (5) The West Virginia Thoroughbred Development Fund created
6 under section thirteen-b, article twenty-three, chapter nineteen of
7 this code and the West Virginia Greyhound Breeding Development Fund
8 created under section ten of said article shall receive an equal
9 share of a total of not less than one and one-half percent of the
10 net terminal income;

11 (6) The West Virginia Racing Commission shall receive one
12 percent of the net terminal income which shall be deposited and
13 used as provided in section thirteen-c, article twenty-three,
14 chapter nineteen of this code.

15 (7) A licensee shall receive forty-six and one-half percent of
16 net terminal income, less an amount required for the payment of any
17 premiums for Workers' Compensation coverage for the employees of
18 employers of trainers, jockeys, exercise riders and any other
19 employees of a person or entity engaged in racing activities at a
20 horse or dog racetrack licensed in this state, which amount shall
21 be deducted from the licensee's share under this subdivision by the
22 commission and remitted to the entity from which such coverage is
23 being provided as required by the provisions of section one-a,
24 article two, chapter twenty-three of this code in a manner

1 sufficiently timely to avoid default in the payment of such
2 premiums.

3 (8) (A) The Tourism Promotion Fund established in section
4 twelve, article two, chapter five-b of this code shall receive
5 three percent of the net terminal income: *Provided*, That for the
6 fiscal year beginning July 1, 2003, the Tourism Commission shall
7 transfer from the Tourism Promotion Fund \$5 million of the three
8 percent of the net terminal income described in this section and
9 section ten-b of this article into the fund administered by the
10 West Virginia economic development authority pursuant to section
11 seven, article fifteen, chapter thirty-one of this code, \$5 million
12 into the Capitol Renovation and Improvement Fund administered by
13 the Department of Administration pursuant to section six, article
14 four, chapter five-a of this code and \$5 million into the tax
15 reduction and federal funding increased compliance fund; and

16 (B) Notwithstanding any provision of paragraph (A) of this
17 subdivision to the contrary, for each fiscal year beginning after
18 June 13, 2004, this three percent of net terminal income and the
19 three percent of net terminal income described in paragraph (B),
20 subdivision (8), subsection (a), section ten-b of this article
21 shall be distributed as provided in this paragraph as follows:

22 (I) One and three hundred seventy-five hundredth percent of
23 the total amount of net terminal income described in this section
24 and in section ten-b of this article shall be deposited into the

1 Tourism Promotion Fund created under section twelve, article two,
2 chapter five-b of this code;

3 (ii) Three hundred seventy-five hundredth percent of the total
4 amount of net terminal income described in this section and in
5 section ten-b of this article shall be deposited into the
6 Development Office Promotion Fund created under section three-b,
7 article two, chapter five-b of this code;

8 (iii) Five-tenths percent of the total amount of net terminal
9 income described in this section and in section ten-b of this
10 article shall be deposited into the Research Challenge Fund created
11 under section ten, article one-b, chapter eighteen-b of this code;

12 (iv) Six thousand eight hundred seventy-five thousandth
13 percent of the total amount of net terminal income described in
14 this section and in section ten-b of this article shall be
15 deposited into the Capitol Renovation and Improvement Fund
16 administered by the Department of Administration pursuant to
17 section six, article four, chapter five-a of this code; and

18 (v) Six hundred twenty-five thousandth percent of the total
19 amount of net terminal income described in this section and in
20 section ten-b of this article shall be deposited into the 2004
21 Capitol Complex Parking Garage Fund administered by the Department
22 of Administration pursuant to section five-a, article four, chapter
23 five-a of this code;

24 (9) (A) On and after June 1, 2005, seven percent of net

1 terminal income shall be deposited into the Workers' Compensation
2 Debt Reduction Fund created in section five, article two-d, chapter
3 twenty-three of this code: *Provided*, That in any fiscal year when
4 the amount of money generated by this subdivision totals \$11
5 million, all subsequent distributions under this subdivision shall
6 be deposited in the special fund established by the licensee and
7 used for the payment of regular purses in addition to the other
8 amounts provided for in article twenty-three, chapter nineteen of
9 this code;

10 (B) The deposit of the seven percent of net terminal income
11 into the Worker's Compensation Debt Reduction Fund pursuant to this
12 subdivision shall expire and not be imposed with respect to these
13 funds and shall be deposited in the special fund established by the
14 licensee and used for payment of regular purses in addition to the
15 other amounts provided ~~for~~ in article twenty-three, chapter
16 nineteen of this code, on and after the first day of the month
17 following the month in which the Governor certifies to the
18 Legislature that: (I) The revenue bonds issued pursuant to article
19 two-d, chapter twenty-three of this code, have been retired or
20 payment of the debt service provided for; and (ii) that an
21 independent certified actuary has determined that the unfunded
22 liability of the old fund, as defined in chapter twenty-three of
23 this code, has been paid or provided ~~for~~ in its entirety; and

24 (10) The remaining one percent of net terminal income shall be

1 deposited as follows:

2 (A) For the fiscal year beginning July 1, 2003, the veterans
3 memorial program shall receive one percent of the net terminal
4 income until sufficient moneys have been received to complete the
5 veterans memorial on the grounds of the State Capitol Complex in
6 Charleston, West Virginia. The moneys shall be deposited in the
7 State Treasury in the Division of Culture and History special fund
8 created under section three, article one-I, chapter twenty-nine of
9 this code: *Provided*, That only after sufficient moneys have been
10 deposited in the fund to complete the veterans memorial and to pay
11 in full the annual bonded indebtedness on the veterans memorial,
12 not more than \$20,000 of the one percent of net terminal income
13 provided for in this subdivision shall be deposited into a special
14 revenue fund in the State Treasury, to be known as the "John F.
15 'Jack' Bennett Fund". The moneys in this fund shall be expended by
16 the Division of Veterans Affairs to provide for the placement of
17 markers for the graves of veterans in perpetual cemeteries in this
18 state. The Division of Veterans Affairs shall promulgate
19 legislative rules pursuant to the provisions of article three,
20 chapter twenty-nine-a of this code specifying the manner in which
21 the funds are spent, determine the ability of the surviving spouse
22 to pay for the placement of the marker and setting forth the
23 standards to be used to determine the priority in which the
24 veterans grave markers will be placed in the event that there are

1 not sufficient funds to complete the placement of veterans grave
2 markers in any one year, or at all. Upon payment in full of the
3 bonded indebtedness on the veterans memorial, \$100,000 of the one
4 percent of net terminal income provided for in this subdivision
5 shall be deposited in the special fund in the Division of Culture
6 and History created under section three, article one-I, chapter
7 twenty-nine of this code and be expended by the Division of Culture
8 and History to establish a West Virginia Veterans Memorial Archives
9 within the Cultural Center to serve as a repository for the
10 documents and records pertaining to the veterans memorial, to
11 restore and maintain the monuments and memorial on the capitol
12 grounds: *Provided, however,* That \$500,000 of the one percent of
13 net terminal income shall be deposited in the State Treasury in a
14 special fund of the Department of Administration, created under
15 section five, article four, chapter five-a of this code, to be used
16 for construction and maintenance of a parking garage on the State
17 Capitol Complex; and the remainder of the one percent of net
18 terminal income shall be deposited in equal amounts in the Capitol
19 Dome and Improvements Fund created under section two, article four,
20 chapter five-a of this code and cultural facilities and Capitol
21 Resources Matching Grant Program Fund created under section three,
22 article one of this chapter.

23 (B) For each fiscal year beginning after June 13, 2004:

24 (I) \$500,000 of the one percent of net terminal income shall

1 be deposited in the State Treasury in a special fund of the
2 Department of Administration, created under section five, article
3 four, chapter five-a of this code, to be used for construction and
4 maintenance of a parking garage on the State Capitol Complex; and

5 (ii) The remainder of the one percent of net terminal income
6 and all of the one percent of net terminal income described in
7 paragraph (B), subdivision (9), subsection (a), section ten-b of
8 this article twenty-two-a shall be distributed as follows: The net
9 terminal income shall be deposited in equal amounts into the
10 Capitol Dome and Capitol Improvements Fund created under section
11 two, article four, chapter five-a of this code and the Cultural
12 Facilities and Capitol Resources Matching Grant Program Fund
13 created under section three, article one, chapter twenty-nine of
14 this code until a total of \$1.5 million is deposited into the
15 Cultural Facilities and Capitol Resources Matching Grant Program
16 Fund; thereafter, the remainder shall be deposited into the Capitol
17 Dome and Capitol Improvements Fund.

18 (d) Each licensed racetrack shall maintain in its account an
19 amount equal to or greater than the gross terminal income from its
20 operation of video lottery machines, to be electronically
21 transferred by the commission on dates established by the
22 commission. Upon a licensed racetrack's failure to maintain this
23 balance, the commission may disable all of a licensed racetrack's
24 video lottery terminals until full payment of all amounts due is

1 made. Interest shall accrue on any unpaid balance at a rate
2 consistent with the amount charged for state income tax delinquency
3 under chapter eleven of this code. The interest shall begin to
4 accrue on the date payment is due to the commission.

5 (e) The commission's central control computer shall keep
6 accurate records of all income generated by each video lottery
7 terminal. The commission shall prepare and mail to the licensed
8 racetrack a statement reflecting the gross terminal income
9 generated by the licensee's video lottery terminals. Each licensed
10 racetrack shall report to the commission any discrepancies between
11 the commission's statement and each terminal's mechanical and
12 electronic meter readings. The licensed racetrack is solely
13 responsible for resolving income discrepancies between actual money
14 collected and the amount shown on the accounting meters or on the
15 commission's billing statement.

16 (f) Until an accounting discrepancy is resolved in favor of
17 the licensed racetrack, the commission may make no credit
18 adjustments. For any video lottery terminal reflecting a
19 discrepancy, the licensed racetrack shall submit to the commission
20 the maintenance log which includes current mechanical meter
21 readings and the audit ticket which contains electronic meter
22 readings generated by the terminal's software. If the meter
23 readings and the commission's records cannot be reconciled, final
24 disposition of the matter shall be determined by the commission.

1 Any accounting discrepancies which cannot be otherwise resolved
2 shall be resolved in favor of the commission.

3 (g) Licensed racetracks shall remit payment by mail if the
4 electronic transfer of funds is not operational or the commission
5 notifies licensed racetracks that remittance by this method is
6 required. The licensed racetracks shall report an amount equal to
7 the total amount of cash inserted into each video lottery terminal
8 operated by a licensee, minus the total value of game credits which
9 are cleared from the video lottery terminal in exchange for winning
10 redemption tickets, and remit the amount as generated from its
11 terminals during the reporting period. The remittance shall be
12 sealed in a properly addressed and stamped envelope and deposited
13 in the United States mail no later than noon on the day when the
14 payment would otherwise be completed through electronic funds
15 transfer.

16 (h) Licensed racetracks may, upon request, receive additional
17 reports of play transactions for their respective video lottery
18 terminals and other marketing information not considered
19 confidential by the commission. The commission may charge a
20 reasonable fee for the cost of producing and mailing any report
21 other than the billing statements.

22 (I) The commission has the right to examine all accounts, bank
23 accounts, financial statements and records in a licensed
24 racetrack's possession, under its control or in which it has an

1 interest and the licensed racetrack shall authorize all third
2 parties in possession or in control of the accounts or records to
3 allow examination of any of those accounts or records by the
4 commission.

NOTE: The purpose of this bill is to provide Workers' Compensation coverage for certain employees who perform duties attendant to racing activities.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.