

1 **ENROLLED**

2 **Senate Bill No. 413**

3 (BY SENATORS SNYDER, KLEMPA, YOST, McCABE, UNGER AND D. FACEMIRE)

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5 [Passed March 8, 2011; to take effect July 1, 2011.]  
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10 AN ACT to amend and reenact §19-23-5 and §19-23-6 of the Code of  
11 West Virginia, 1931, as amended, all relating to changing the  
12 title of the West Virginia Racing Commission's racing  
13 secretary to executive director.

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

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

17 **ARTICLE 19. HORSE AND DOG RACING.**

18 **§19-23-5. Executive director and other personnel; qualifications;**  
19 **terms; powers and duties; compensation and expenses.**

20 (a) The Racing Commission shall appoint an executive director  
21 to represent the Racing Commission who shall have the powers and  
22 authority and perform such duties as the Racing Commission directs.  
23 The executive director shall preserve at the Racing Commission's

1 principal office all books, maps, records, documents and other  
2 papers of the Racing Commission. The executive director shall, in  
3 addition to all other duties imposed upon him or her by the Racing  
4 Commission, serve in a liaison capacity between licensees and the  
5 Racing Commission. The Racing Commission may also employ, direct  
6 and define the duties of an assistant executive director and such  
7 stenographers, clerks and other office personnel as it deems  
8 necessary to carry out the duties imposed upon it under the  
9 provisions of this article.

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

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

22 (1) Who directly or indirectly, or in any capacity, owns or  
23 has any interest, in any manner, in any racetrack where horse or  
24 dog race meetings may be held, including, but not limited to, an

1 interest as owner, lessor, lessee, stockholder or employee;

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

6 (3) Who has been or shall be convicted of an offense which,  
7 under the law of this state or any other state or of the United  
8 States of America, constitutes a felony or is a violation of  
9 article four, chapter sixty-one of this code. Any steward employed  
10 by the Racing Commission or by a licensee shall be a person of  
11 integrity and experienced and qualified for such position by the  
12 generally accepted practices and customs of horse or dog racing in  
13 the United States.

14 (d) The executive director and all other employees of the  
15 Racing Commission shall serve at the will and pleasure of the  
16 Racing Commission. The executive director and the other employees  
17 referred to in this section as employees of the Racing Commission  
18 shall receive such compensation as may be fixed by the Racing  
19 Commission within the limit of available funds and shall be  
20 reimbursed for all reasonable and necessary expenses actually  
21 incurred in the performance of their official duties.

22 (e) All compensation and reimbursement for expenses of the  
23 members of the Racing Commission, the executive director and all  
24 other employees of the Racing Commission shall be paid from the

1 funds in the hands of the State Treasurer collected under the  
2 provisions of this article and shall be itemized in the budget in  
3 the same manner as all other departments of state government. No  
4 reimbursement for expenses incurred shall be paid unless an  
5 itemized account, under oath, is first filed with the State  
6 Auditor.

7 **§19-23-6. Powers and authority of Racing Commission.**

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

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

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

18 (3) To promulgate reasonable rules implementing and making  
19 effective the provisions of this article and the powers and  
20 authority conferred and the duties imposed upon the Racing  
21 Commission under the provisions of this article, including, but not  
22 limited to, reasonable rules under which all horse races, dog  
23 races, horse race meetings and dog race meetings shall be held and  
24 conducted, all of which reasonable rules shall be promulgated in

1 accordance with the provisions of article three, chapter twenty-  
2 nine-a of this code except that the Racing Commission shall  
3 promulgate separate rules, in accordance with article three,  
4 chapter twenty-nine-a, pertaining to the kinds of legal combination  
5 wagers which may be placed in connection with the pari-mutuel  
6 system of wagering authorized by this article;

7       (4) To register colors and assumed names and to fix, from time  
8 to time, the annual fee to be paid to the Racing Commission for any  
9 such registration;

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

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

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

22       (8) To investigate alleged violations of the provisions of  
23 this article, its reasonable rules, orders and final decisions and  
24 to take appropriate disciplinary action against any licensee or

1 permit holder or construction permit holder for a violation or  
2 institute appropriate legal action for enforcement or take  
3 disciplinary action and institute legal action;

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

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

16 (11) To acquire, establish, maintain and operate, or to  
17 provide by contract for the maintenance and operation of, a testing  
18 laboratory and related facilities for the purpose of conducting  
19 saliva, urine and other tests on the horse or dog or horses or dogs  
20 run or to be run in any horse or dog race meeting and to purchase  
21 all equipment and supplies considered necessary or desirable in  
22 connection with the acquisition, establishment, maintenance and  
23 operation of any testing laboratory and related facilities and all  
24 such tests;

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

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

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

15           (15) To keep accurate and complete records of its proceedings  
16 and to certify the same as may be appropriate;

17           (16) To take any other action that may be reasonable or  
18 appropriate to effectuate the provisions of this article and its  
19 reasonable rules;

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

23           (18) To mediate on site, upon request of a party, all disputes  
24 existing between the racetrack licensees located in this state and

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

16       The Racing Commission shall not interfere in the internal  
17 business or internal affairs of any licensee.