

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.]

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
2 director to represent the Racing Commission who shall have
3 the powers and authority and perform such duties as the
4 Racing Commission directs. The executive director shall
5 preserve at the Racing Commission's principal office all
6 books, maps, records, documents and other papers of the
7 Racing Commission. The executive director shall, in addition
8 to all other duties imposed upon him or her by the Racing
9 Commission, serve in a liaison capacity between licensees

10 and the Racing Commission. The Racing Commission may
11 also employ, direct and define the duties of an assistant
12 executive director and such stenographers, clerks and other
13 office personnel as it deems necessary to carry out the duties
14 imposed upon it under the provisions of this article.

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

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

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

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

37 (3) Who has been or shall be convicted of an offense which,
38 under the law of this state or any other state or of the United
39 States of America, constitutes a felony or is a violation of
40 article four, chapter sixty-one of this code. Any steward
41 employed by the Racing Commission or by a licensee shall be
42 a person of integrity and experienced and qualified for such
43 position by the generally accepted practices and customs of
44 horse or dog racing in the United States.

45 (d) The executive director and all other employees of the
46 Racing Commission shall serve at the will and pleasure of the
47 Racing Commission. The executive director and the other
48 employees referred to in this section as employees of the
49 Racing Commission shall receive such compensation as may
50 be fixed by the Racing Commission within the limit of
51 available funds and shall be reimbursed for all reasonable
52 and necessary expenses actually incurred in the performance
53 of their official duties.

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

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

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

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

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

12 (3) To promulgate reasonable rules implementing and
13 making effective the provisions of this article and the powers
14 and authority conferred and the duties imposed upon the
15 Racing Commission under the provisions of this article,
16 including, but not limited to, reasonable rules under which

17 all horse races, dog races, horse race meetings and dog race
18 meetings shall be held and conducted, all of which reason-
19 able rules shall be promulgated in accordance with the
20 provisions of article three, chapter twenty-nine-a of this
21 code except that the Racing Commission shall promulgate
22 separate rules, in accordance with article three, chapter
23 twenty-nine-a, pertaining to the kinds of legal combination
24 wagers which may be placed in connection with the pari-
25 mutuel system of wagering authorized by this article;

26 (4) To register colors and assumed names and to fix, from
27 time to time, the annual fee to be paid to the Racing Commis-
28 sion for any such registration;

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

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

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

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

47 (9) By reasonable rules, to authorize stewards, starters and
48 other racing officials to impose reasonable fines or other
49 sanctions upon a person connected with or involved in any
50 horse or dog racing or any horse or dog race meeting and to
51 authorize stewards to rule off the grounds of any horse or

52 dog racetrack any tout, bookmaker or other undesirable
53 individual determined inimical to the best interests of horse
54 and dog racing or the pari-mutuel system of wagering in
55 connection therewith;

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

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

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

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

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

85 (15) To keep accurate and complete records of its proceed-
86 ings and to certify the same as may be appropriate;

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

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

93 (18) To mediate on site, upon request of a party, all dis-
94 putes existing between the racetrack licensees located in this
95 state and representatives of a majority of the horse owners
96 and trainers licensed at the track which threaten to disrupt
97 any scheduled racing event or events. The Racing Commis-
98 sion shall, upon the request of a party, mediate on site all
99 disputes existing between racetrack licensees and represen-
100 tatives of pari-mutuel clerks which threaten to disrupt any
101 scheduled racing event or events. When a request for media-
102 tion is made, the commission shall designate from among its
103 members one person to act as mediator in each dispute that
104 arises. Each opposing party involved in any dispute shall
105 negotiate in good faith with the goal of reaching a fair and
106 mutual resolution. The mediator may issue recommendations
107 designed to assist each side toward reaching a fair compro-
108 mise. No owner or operator or any horse owner or trainer or
109 any pari-mutuel clerk licensed at the track is required to
110 abide by any recommendation made by any mediator acting
111 pursuant to this subsection.

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

The 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

Originated in the Senate.

To take effect July 1, 2011.

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Clerk of the Senate

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Clerk of the House of Delegates

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Acting President of the Senate

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Speaker of the House of Delegates

The within this the
Day of, 2011.

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Governor