

Senate Bill No. 413

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

[Introduced February 3, 2011; referred to
the Committee on Government Organization.]

A BILL 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 ~~a racing secretary~~
2 an executive director to represent the Racing Commission

3 ~~and such racing secretary shall possess such~~ who shall have
4 the powers and authority and perform such duties as the
5 Racing Commission ~~may direct or prescribe.~~ directs. The
6 ~~racing secretary~~ executive director shall preserve at the
7 Racing Commission's principal office all books, maps,
8 records, documents and other papers of the Racing Commis-
9 sion. The ~~racing secretary~~ executive director shall, in
10 addition to all other duties imposed upon him or her by the
11 Racing Commission, serve in a liaison capacity between
12 licensees and the Racing Commission. The Racing Commis-
13 sion may also employ, direct and define the duties of an
14 assistant ~~racing secretary~~ executive director and such
15 stenographers, clerks and other office personnel as it ~~may~~
16 ~~deem~~ deems necessary to carry out the duties imposed upon
17 it under the provisions of this article.

18 (b) In addition to the employees referred to above, the
19 Racing Commission shall employ, direct and define the
20 duties of a chief clerk, director of security, director of audit,
21 chief chemist, stewards to represent the Racing Commission,
22 supervisors of the pari-mutuel wagering conducted under the
23 provisions of this article, veterinarians, inspectors, accoun-
24 tants, guards and all other employees deemed by the Racing

25 Commission to be essential in connection with any horse or
26 dog race meeting. The director of audit shall be a certified
27 public accountant or experienced public accountant.

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

31 (1) Who directly or indirectly, or in any capacity, owns or
32 has any interest, in any manner, ~~whatever~~, in any racetrack
33 where horse or dog race meetings may be held, including, but
34 not limited to, an interest as owner, lessor, lessee, stock-
35 holder or employee;

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

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

48 (d) The ~~racing secretary~~ executive director and all other
49 employees of the Racing Commission shall serve at the will
50 and pleasure of the Racing Commission. The ~~racing secretary~~
51 executive director and the other employees referred to in this
52 section as employees of the Racing Commission shall receive
53 such compensation as may be fixed by the Racing Commis-
54 sion within the limit of available funds and shall be reim-
55 bursed for all reasonable and necessary expenses actually
56 incurred in the performance of their official duties.

57 (e) All compensation and reimbursement for expenses of
58 the members of the Racing Commission, the ~~racing secretary~~
59 executive director and all other employees of the Racing
60 Commission shall be paid from the funds in the hands of the
61 State Treasurer collected under the provisions of this article
62 and shall be itemized in the budget in the same manner as all
63 other departments of state government. ~~but~~ No reimburse-
64 ment for expenses incurred shall be paid unless an itemized
65 account, ~~thereof,~~ under oath, ~~be~~ is first filed with the State
66 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 ~~and regulations~~
13 implementing and making effective the provisions of this
14 article and the powers and authority conferred and the
15 duties imposed upon the Racing Commission under the
16 provisions of this article, including, but not limited to,
17 reasonable rules ~~and regulations~~ under which all horse races,
18 dog races, horse race meetings and dog race meetings shall
19 be held and conducted, all of which reasonable rules ~~and~~
20 ~~regulations~~ shall be promulgated in accordance with the
21 provisions of article three, chapter twenty-nine-a of this
22 code ~~Provided, That~~ ~~Provided, That~~ in accordance with
23 ~~article three, chapter twenty-nine-a, except that~~ the Racing
24 Commission shall promulgate separate rules, in accordance

25 ~~with article three, chapter twenty-nine-a,~~ pertaining to the
26 kinds of legal combination wagers which may be placed in
27 connection with the pari-mutuel system of wagering autho-
28 rized by this article;

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

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

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

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

45 (8) To investigate alleged violations of the provisions of
46 this article, its reasonable rules ~~and regulations~~, orders and

47 final decisions and to take appropriate disciplinary action
48 against any licensee or permit holder or construction permit
49 holder for ~~the violation thereof~~ a violation or institute
50 appropriate legal action for ~~the enforcement thereof~~ enforce-
51 ment or take ~~such~~ disciplinary action and institute ~~such~~ legal
52 action;

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

62 (10) To require at any time the removal of any racing
63 official or racing employee of any licensee for the violation
64 of any provision of this article, any reasonable rule ~~and~~
65 ~~regulation~~ of the Racing Commission or for any fraudulent
66 practice;

67 (11) To acquire, establish, maintain and operate, or to
68 provide by contract for the maintenance and operation of, a

69 testing laboratory and related facilities for the purpose of
70 conducting saliva, urine and other tests on the horse or dog
71 or horses or dogs run or to be run in any horse or dog race
72 meeting and to purchase all equipment and supplies consid-
73 ered necessary or desirable in connection with the acquisi-
74 tion, establishment, maintenance and operation of any
75 testing laboratory and related facilities and all such tests;

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

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

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

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

94 (16) To take any other action that may be reasonable or
95 appropriate to effectuate the provisions of this article and its
96 reasonable rules ~~and regulations~~;

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

100 (18) To mediate on site, upon request of a party, all dis-
101 putes existing between the racetrack licensees located in this
102 state and representatives of a majority of the horse owners
103 and trainers licensed at the track which threaten to disrupt
104 any scheduled racing event or events. The Racing Commis-
105 sion shall, upon the request of a party, mediate on site all
106 disputes existing between racetrack licensees and represen-
107 tatives of pari-mutuel clerks which threaten to disrupt any
108 scheduled racing event or events. When a request for media-
109 tion is made, the commission shall designate from among its
110 members one person to act as mediator in each dispute that
111 arises. Each opposing party involved in any dispute shall
112 negotiate in good faith with the goal of reaching a fair and
113 mutual resolution. The mediator may issue recommendations

114 designed to assist each side toward reaching a fair compro-
115 mise. ~~Provided, That~~ No owner or operator or any horse
116 owner or trainer or any pari-mutuel clerk licensed at the
117 track ~~may be~~ is required to abide by any recommendation
118 made by any mediator acting pursuant to this subsection.
119 The Racing Commission shall not interfere in the internal
120 business or internal affairs of any licensee.

(NOTE: The purpose of this bill is to change the title of the Racing Commission's racing secretary to executive director.

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