

1 **H. B. 4529**

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3 (By Delegates Shaver, Caputo and Doyle)  
4 [Introduced February 14, 2012; referred to the  
5 Committee on the Judiciary then Finance.]  
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10 A BILL to amend and reenact §19-23-13b of the Code of West  
11 Virginia, 1931, as amended, relating to increasing  
12 opportunities for West Virginia accredited thoroughbred race  
13 horses by adding one West Virginia accredited race per day at  
14 each thoroughbred track and having West Virginia accredited  
15 races not count in condition eligibility for open races at  
16 West Virginia thoroughbred racetracks.

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

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

20 **ARTICLE 23. HORSE AND DOG RACING.**

21 **§19-23-13b. West Virginia Thoroughbred Development Fund;**  
22 **distribution; restricted races; nonrestricted**  
23 **purse supplements; preference for West Virginia**

1                                   **accredited thoroughbreds.**

2           (a) The Racing Commission shall deposit moneys required to be  
3 withheld by an association or licensee in subsection (b), section  
4 nine of this article in a banking institution of its choice in a  
5 special account to be known as "West Virginia Racing Commission  
6 Special Account -- West Virginia Thoroughbred Development Fund":  
7 *Provided*, That after the West Virginia Lottery Commission has  
8 divided moneys between the West Virginia Thoroughbred Development  
9 Fund and the West Virginia Greyhound Breeding Development Fund  
10 pursuant to the provisions of sections ten and ten-b, article  
11 twenty-two-a, chapter twenty-nine of this code, the Racing  
12 Commission shall, beginning October 1, 2005, deposit the remaining  
13 moneys required to be withheld from an association or licensee  
14 designated to the Thoroughbred Development Fund under the  
15 provisions of subsection (b), section nine of this article,  
16 subdivision (3), subsection (e), section twelve-b of this article,  
17 subsection (b), section twelve-c of this article, paragraph (B),  
18 subdivision (3), subsection (b), section thirteen-c of this article  
19 and sections ten and ten-b, article twenty-two-a, chapter twenty-  
20 nine of this code into accounts for each thoroughbred racetrack  
21 licensee with a banking institution of its choice with a separate  
22 account for each association or licensee. Each separate account  
23 shall be a special account to be known as "West Virginia Racing  
24 Commission Special Account - West Virginia Thoroughbred Development

1 Fund" and shall name the licensee for which the special account has  
2 been established: *Provided, however,* That the Racing Commission  
3 shall deposit all moneys paid into the Thoroughbred Development  
4 Fund by a thoroughbred racetrack licensee that did not participate  
5 in the Thoroughbred Development Fund for at least four consecutive  
6 calendar years prior to December 31, 1992 from July 8, 2005 until  
7 the effective date of the amendment to this section passed during  
8 the fourth extraordinary session of the seventy-seventh Legislature  
9 shall be paid into the purse fund of that thoroughbred racetrack  
10 licensee: *Provided further,* That the moneys paid into the  
11 Thoroughbred Development Fund by a thoroughbred racetrack licensee  
12 that did not participate in the Thoroughbred Development Fund for  
13 at least four consecutive calendar years prior to December 31,  
14 1992, shall be transferred into that licensee's purse fund until  
15 April 1, 2006. Notice of the amount, date and place of the  
16 deposits shall be given by the Racing Commission, in writing, to  
17 the State Treasurer. The purpose of the funds is to promote better  
18 breeding and racing of thoroughbred horses in the state through  
19 awards and purses for accredited breeders/raisers, sire owners and  
20 thoroughbred race horse owners: *Provided,* That five percent of the  
21 deposits required to be withheld by an association or licensee in  
22 subsection (b), section nine of this article shall be placed in a  
23 special revenue account hereby continued in the State Treasury  
24 called the "Administration and Promotion Account": *Provided,*

1 *however*, That four and one-half percent of the deposits into the  
2 thoroughbred development fund shall be placed in the Administration  
3 and Promotion Account, except that of this percentage, no more than  
4 \$305,000 shall be placed in the account in any year.

5 (b) The Racing Commission is authorized to expend the moneys  
6 deposited in the administration and promotion account at times and  
7 in amounts as the commission determines to be necessary for  
8 purposes of administering and promoting the thoroughbred  
9 development program: *Provided*, That during any fiscal year in which  
10 the Commission anticipates spending any money from the account, the  
11 Commission shall submit to the executive department during the  
12 budget preparation period prior to the Legislature convening before  
13 that fiscal year for inclusion in the executive budget document and  
14 budget bill the recommended expenditures, as well as requests of  
15 appropriations for the purpose of administration and promotion of  
16 the program. The commission shall make an annual report to the  
17 Legislature on the status of the administration and promotion  
18 account, including the previous year's expenditures and projected  
19 expenditures for the next year.

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

22 (d) Funds in the Thoroughbred Development Fund or funds in the  
23 separate accounts for each association or licensee as provided in  
24 subsection (a) of this section shall be expended for awards and

1 purses except as otherwise provided in this section. Annually, the  
2 first \$800,000 shall be available for distribution for a minimum of  
3 fourteen accredited stakes races at a racetrack which has  
4 participated in the West Virginia Thoroughbred Development Fund for  
5 a period of more than four consecutive calendar years prior to  
6 December 31, 1992. The weights for all accredited stakes races  
7 shall be weight for age. One of the stakes races shall be the West  
8 Virginia Futurity and the second shall be the Frank Gall Memorial  
9 Stakes. For the purpose of participating in the West Virginia  
10 Futurity only, all mares, starting with the breeding season  
11 beginning February 1 through July 31, 2004, and each successive  
12 breeding season thereafter shall be bred back that year to an  
13 accredited West Virginia stallion only which is registered with the  
14 West Virginia Thoroughbred Breeders Association. The accredited  
15 stake races shall be chosen by the committee set forth in  
16 subsection (f) of this section.

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

18 (1) The breeders/raisers of accredited thoroughbred horses  
19 that earn a purse at a participating West Virginia meet shall  
20 receive a bonus award calculated at the end of the year as a  
21 percentage of the fund dedicated to the breeders/raisers, which  
22 shall be sixty percent of the fund available for distribution in  
23 any one year. The total amount available for the breeders'/raisers'  
24 awards shall be distributed according to the ratio of purses earned

1 by an accredited race horse to the total amount earned in the  
2 participating races by all accredited race horses for that year as  
3 a percentage of the fund dedicated to the breeders/raisers.  
4 However, no breeder/raiser may receive from the fund dedicated to  
5 breeders'/raisers' awards an amount in excess of the earnings of  
6 the accredited horse at West Virginia meets. In addition, should  
7 a horse's breeder and raiser qualify for the same award on the same  
8 horse, they will each be awarded one half of the proceeds. The  
9 bonus referred to in this subdivision may only be paid on the first  
10 \$100,000 of any purse and not on any amounts in excess of the first  
11 \$100,000.

12 (2) The owner of an accredited West Virginia sire of an  
13 accredited thoroughbred horse that earns a purse in any race at a  
14 participating West Virginia meet shall receive a bonus award  
15 calculated at the end of the year as a percentage of the fund  
16 dedicated to sire owners, which shall be fifteen percent of the  
17 fund available for distribution in any one year. The total amount  
18 available for the sire owners' awards shall be distributed  
19 according to the ratio of purses earned by the progeny of  
20 accredited West Virginia stallions in the participating races for  
21 a particular stallion to the total purses earned by the progeny of  
22 all accredited West Virginia stallions in the participating races.  
23 However, no sire owner may receive from the fund dedicated to sire  
24 owners an amount in excess of thirty-five percent of the accredited

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

4 (3) The owner of an accredited thoroughbred horse that earns  
5 a purse in any participating race at a West Virginia meet shall  
6 receive a restricted purse supplement award calculated at the end  
7 of the year, which shall be twenty-five percent of the fund  
8 available for distribution in any one year, based on the ratio of  
9 the earnings in the races of a particular race horse to the total  
10 amount earned by all accredited race horses in the participating  
11 races during that year as a percentage of the fund dedicated to  
12 purse supplements. However, the owners may not receive from the  
13 fund dedicated to purse supplements an amount in excess of thirty-  
14 five percent of the total accredited earnings for each accredited  
15 race horse. The bonus referred to in this subdivision shall only  
16 be paid on the first \$100,000 of any purse and not on any amounts  
17 in excess of the first \$100,000.

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

22 (5) Any balance in the breeders/raisers, sire owners and purse  
23 supplement funds after yearly distributions shall first be used to  
24 fund the races established in subsection (f) of this section. Any

1 amount not so used shall revert into the general account of the  
2 Thoroughbred Development Fund for each racing association or  
3 licensee for distribution in the next year.

4 Distribution shall be made on February 15, of each February  
5 for the preceding year's achievements.

6 (f) (1) Each pari-mutuel thoroughbred horse track shall  
7 provide at least one restricted race per racing day: *Provided,*  
8 That sufficient horses and funds are available. For purposes of  
9 this subsection, there are sufficient horses if there are at least  
10 seven single betting interests received for the race: *Provided,*  
11 *however,* That if sufficient horses and funds are available, any  
12 thoroughbred horse racetrack whose licensee participated in the  
13 Thoroughbred Development Fund for at least four consecutive  
14 calendar years prior to December 31, 1992, shall provide two  
15 restricted races per racing day, at least one of which may be split  
16 at the discretion of the racing secretary: *Provided further, That*  
17 any thoroughbred horse racetrack whose licensee participated in the  
18 Thoroughbred Development Fund for at least four consecutive  
19 calendar years prior to December 31, 1992 is not required to  
20 provide two restricted races per racing day under this subsection  
21 on a racing day in which the racetrack provides two or more  
22 accredited stakes races as established in subsection (d) of this  
23 section or West Virginia thoroughbred breeders classic stakes  
24 races as established in paragraph (1) , subsection (b), section



1 thirteen-c of this article. The restricted race required by this  
2 section must be included in the first nine races written in the  
3 condition book for that racing day.

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

7 (A) The racing secretary at each track;

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

10 (C) A member appointed by the West Virginia Thoroughbred  
11 Breeders Association.

12 (3) Restricted races shall be funded by each racing  
13 association from:

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

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

22 (4) If a thoroughbred wins a restricted race established in  
23 this subsection or an accredited stakes race established in  
24 subsection (d) of this section or a West Virginia thoroughbred

1 breeders classic stakes race established in paragraph (1),  
2 subsection (b), section thirteen-c of this article, the win shall  
3 not be considered in determining eligibility and weights for open  
4 races, except for maiden races, run at thoroughbred horse  
5 racetracks in this state.

6 ~~(4)~~ (5) The racing schedules, purse amounts and types of races  
7 are subject to the approval of the West Virginia Racing Commission.

8 ~~(5)~~ (6) If less than seventy-five percent of the restricted  
9 races required by this subsection fail to receive enough entries to  
10 race, the Racing Commission shall, on a quarterly basis, dedicate  
11 funds in each fund back to the general purse fund of the racing  
12 association or licensee: *Provided*, That no moneys may be dedicated  
13 back to a general purse fund if the dedication would leave less  
14 than \$250,000 in the fund.

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

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

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

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

24 (3) The breeder of the West Virginia bred-foal is not a West

1 Virginia resident and does not qualify under subdivision (2) of  
2 this subsection, but either the sire of the West Virginia bred-foal  
3 is a West Virginia stallion, or the mare is covered only by a West  
4 Virginia accredited stallion or stallions before December 31 of the  
5 calendar year following the birth of that West Virginia bred-foal.

6 (i) From July 1, 2001, West Virginia accredited thoroughbred  
7 horses have preference for entry in all accredited races at a  
8 thoroughbred race track at which the licensee participates in the  
9 West Virginia Thoroughbred Development Fund.

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

NOTE: The purpose of this bill is to increase opportunities for West Virginia accredited thoroughbred racehorses at any thoroughbred racetrack that participated in the West Virginia Thoroughbred Development Fund for at least four consecutive years prior to December 31, 1992, by adding one West Virginia accredited race per day and having West Virginia accredited races not count in condition eligibility for open races at that thoroughbred racetrack. The economic advantages for passing this bill include increasing value for all accredited West Virginia racehorses. The cost of implementation of this legislation is minimal.

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