

H. B. 4600

(By Delegates Doyle, Caputo and Shaver)
[Introduced February 17, 2012; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend and reenact §19-23-13b of the Code of West Virginia, 1931, as amended, relating to increasing opportunities for West Virginia accredited thoroughbred race horses by adding one West Virginia accredited race per day at each thoroughbred track and having West Virginia accredited races not count in condition eligibility for open races at West Virginia thoroughbred racetracks.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 23. HORSE AND DOG RACING.

§19-23-13b. West Virginia Thoroughbred Development Fund; distribution; restricted races; nonrestricted 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: And provided further, ~~Provided,~~
21 That five percent of the deposits required to be withheld by an
22 association or licensee in subsection (b), section nine of this
23 article shall be placed in a special revenue account hereby
24 continued in the State Treasury called the "Administration and

1 Promotion Account": ~~Provided, however~~ And provided further, That
2 four and one-half percent of the deposits into the thoroughbred
3 development fund shall be placed in the Administration and
4 Promotion Account, except that of this percentage, no more than
5 \$305,000 shall be placed in the account in any year.

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

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

23 (d) Funds in the Thoroughbred Development Fund or funds in the
24 separate accounts for each association or licensee as provided in

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

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

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

1 awards shall be distributed according to the ratio of purses earned
2 by an accredited race horse to the total amount earned in the
3 participating races by all accredited race horses for that year as
4 a percentage of the fund dedicated to the breeders/raisers.
5 However, no breeder/raiser may receive from the fund dedicated to
6 breeders'/raisers' awards an amount in excess of the earnings of
7 the accredited horse at West Virginia meets. In addition, should
8 a horse's breeder and raiser qualify for the same award on the same
9 horse, they will each be awarded one half of the proceeds. The
10 bonus referred to in this subdivision may only be paid on the first
11 \$100,000 of any purse and not on any amounts in excess of the first
12 \$100,000.

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

1 owners an amount in excess of thirty-five percent of the accredited
2 earnings for each sire. The bonus referred to in this subdivision
3 shall only be paid on the first \$100,000 of any purse and not on
4 any amounts in excess of the first \$100,000.

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

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

23 (5) Any balance in the breeders/raisers, sire owners and purse
24 supplement funds after yearly distributions shall first be used to

1 fund the races established in subsection (f) of this section. Any
2 amount not so used shall revert into the general account of the
3 Thoroughbred Development Fund for each racing association or
4 licensee for distribution in the next year.

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

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

1 races as established in paragraph (1) , subsection (b), section
2 thirteen-c of this article. The restricted race required by this
3 section must be included in the first nine races written in the
4 condition book for that racing day.

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

8 (A) The racing secretary at each track;

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

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

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

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

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

23 (4) If a thoroughbred wins a restricted race established in
24 this subsection or an accredited stakes race established in

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

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

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

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

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

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

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

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

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

11 (j) Beginning July 1, 2006, any racing association licensed by
12 the Racing Commission to conduct thoroughbred racing and permitting
13 and conducting pari-mutuel wagering under the provisions of this
14 article must have a West Virginia Thoroughbred Racing Breeders
15 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.