

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 542**

4 (By Senators Snyder, Kessler (Mr. President), Barnes, Blair,  
5 Edgell, Facemire, Fitzsimmons, Green, D. Hall, Kirkendoll, Laird,  
6 Miller, Unger and Yost)

7 \_\_\_\_\_  
8 [Originating in the Committee on the Judiciary;  
9 reported March 26, 2013.]  
10 \_\_\_\_\_

11  
12 A BILL to amend and reenact §19-23-13b of the Code of West  
13 Virginia, 1931, as amended, relating to restricted races at  
14 pari-mutuel thoroughbred horse race tracks; permitting up to  
15 two restricted races at certain tracks if there are at least  
16 seven single betting interests; permitting a third restricted  
17 race at certain tracks if there are at least nine single  
18 betting interests; and eliminating a provision concerning if  
19 less than seventy-five percent of the restricted races fail to  
20 receive enough entries to race.

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

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

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

25 **§19-23-13b. West Virginia Thoroughbred Development Fund;**

1                   **distribution; restricted races; nonrestricted**  
2                   **purse supplements; preference for West Virginia**  
3                   **accredited thoroughbreds.**

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

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

1 Thoroughbred Development Fund shall be placed in the Administration  
2 and Promotion Account, except that of this percentage, no more than  
3 \$305,000 shall be placed in the account in any year.

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

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

21 (d) Funds in the Thoroughbred Development Fund or funds in the  
22 separate accounts for each association or licensee as provided in  
23 subsection (a) of this section shall be expended for awards and  
24 purses except as otherwise provided in this section. Annually, the  
25 first \$800,000 shall be available for distribution for a minimum of  
26 fourteen accredited stakes races at a racetrack which has

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

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

15 (1) The breeders/raisers of accredited thoroughbred horses  
16 that earn a purse at a participating West Virginia meet shall  
17 receive a bonus award calculated at the end of the year as a  
18 percentage of the fund dedicated to the breeders/raisers, which  
19 shall be sixty percent of the fund available for distribution in  
20 any one year. The total amount available for the breeders'/raisers'  
21 awards shall be distributed according to the ratio of purses earned  
22 by an accredited race horse to the total amount earned in the  
23 participating races by all accredited race horses for that year as  
24 a percentage of the fund dedicated to the breeders/raisers.  
25 However, no breeder/raiser may receive from the fund dedicated to  
26 breeders'/raisers' awards an amount in excess of the earnings of

1 the accredited horse at West Virginia meets. In addition, should  
2 a horse's breeder and raiser qualify for the same award on the same  
3 horse, they will each be awarded one half of the proceeds. The  
4 bonus referred to in this subdivision may only be paid on the first  
5 \$100,000 of any purse and not on any amounts in excess of the first  
6 \$100,000.

7 (2) The owner of an accredited West Virginia sire of an  
8 accredited thoroughbred horse that earns a purse in any race at a  
9 participating West Virginia meet shall receive a bonus award  
10 calculated at the end of the year as a percentage of the fund  
11 dedicated to sire owners, which shall be fifteen percent of the  
12 fund available for distribution in any one year. The total amount  
13 available for the sire owners' awards shall be distributed  
14 according to the ratio of purses earned by the progeny of  
15 accredited West Virginia stallions in the participating races for  
16 a particular stallion to the total purses earned by the progeny of  
17 all accredited West Virginia stallions in the participating races.  
18 However, no sire owner may receive from the fund dedicated to sire  
19 owners an amount in excess of thirty-five percent of the accredited  
20 earnings for each sire. The bonus referred to in this subdivision  
21 shall only be paid on the first \$100,000 of any purse and not on  
22 any amounts in excess of the first \$100,000.

23 (3) The owner of an accredited thoroughbred horse that earns  
24 a purse in any participating race at a West Virginia meet shall  
25 receive a restricted purse supplement award calculated at the end  
26 of the year, which shall be twenty-five percent of the fund

1 available for distribution in any one year, based on the ratio of  
2 the earnings in the races of a particular race horse to the total  
3 amount earned by all accredited race horses in the participating  
4 races during that year as a percentage of the fund dedicated to  
5 purse supplements. However, the owners may not receive from the  
6 fund dedicated to purse supplements an amount in excess of thirty-  
7 five percent of the total accredited earnings for each accredited  
8 race horse. The bonus referred to in this subdivision shall only  
9 be paid on the first \$100,000 of any purse and not on any amounts  
10 in excess of the first \$100,000.

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

15 (5) Any balance in the breeders/raisers, sire owners and purse  
16 supplement funds after yearly distributions shall first be used to  
17 fund the races established in subsection (f) of this section. Any  
18 amount not so used shall revert into the general account of the  
19 Thoroughbred Development Fund for each racing association or  
20 licensee for distribution in the next year.

21 Distribution shall be made on the fifteenth day of each  
22 February for the preceding year's achievements.

23 (f) (1) Each pari-mutuel thoroughbred horse track shall provide  
24 at least one restricted race per racing day: *Provided*, That  
25 sufficient horses and funds are available. For purposes of ~~this~~  
26 ~~subsection~~ the one restricted race required by this subdivision,

1 there are sufficient horses if there are at least seven single  
2 betting interests received for the race: *Provided, further*  
3 however, That, if sufficient horses and funds are available, any  
4 thoroughbred horse racetrack whose licensee participated in the  
5 Thoroughbred Development Fund for at least four consecutive  
6 calendar years prior to December 31, 1992, shall provide ~~two~~ three  
7 restricted races per racing day, at least one of which may be split  
8 at the discretion of the racing secretary. For the purposes of a  
9 second restricted race there shall be at least seven single betting  
10 interests and for purposes of a third restricted race there must be  
11 at least nine single betting interests in one of the restricted  
12 races run that day. The restricted race required by this section  
13 must be included in the first nine races written in the condition  
14 book for that racing day.

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

18 (A) The racing secretary at each track;

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

21 (C) A member appointed by the West Virginia Thoroughbred  
22 Breeders Association.

23 (3) Restricted races shall be funded by each racing  
24 association from:

25 (A) Moneys placed in the general purse fund: *Provided, That*  
26 a thoroughbred horse racetrack which did not participate in the



1 West Virginia Thoroughbred Development fund for a period of more  
2 than four consecutive years prior to December 31, 1992, may fund  
3 restricted races in an amount not to exceed \$1,000,000 per year.

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

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

9 ~~(5) If less than seventy five percent of the restricted races  
10 required by this subsection fail to receive enough entries to race,  
11 the Racing Commission shall, on a quarterly basis, dedicate funds  
12 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

25 (3) The breeder of the West Virginia-bred foal is not a West  
26 Virginia resident and does not qualify under subdivision (2) of

1 this subsection, but either the sire of the West Virginia-bred foal  
2 is a West Virginia stallion, or the mare is covered only by a West  
3 Virginia accredited stallion or stallions before December 31 of the  
4 calendar year following the birth of that West Virginia-bred foal.

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

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

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(NOTE: The purpose of this bill is to permit up to two restricted races at pari-mutuel thoroughbred horse race tracks if there are at least seven single betting interests. The bill permits a third restricted race if there are at least nine single betting interests. The bill eliminates a provision concerning if less than seventy-five percent of the restricted races fail to receive enough entries to race.

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