

1 **Senate Bill No. 542**

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

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6 [Introduced March 15, 2013; referred to the Committee on the  
7 Judiciary; and then to the Committee on 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 restricted races at  
12 pari-mutuel thoroughbred horse race tracks; permitting up to  
13 two restricted races if there are at least seven single  
14 betting interests; permitting a third restricted race if there  
15 are at least nine single betting interests; and eliminating a  
16 provision concerning if less than seventy-five percent of the  
17 restricted races fail to receive enough entries to race.

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

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

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

22 **§19-23-13b. West Virginia Thoroughbred Development Fund;**  
23 **distribution; restricted races; nonrestricted**

1                   **purse supplements; preference for West Virginia**  
2                   **accredited thoroughbreds.**

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

1 called the "Administration and Promotion Account": *Provided,*  
2 *however,* That four and one-half percent of the deposits into the  
3 thoroughbred development fund shall be placed in the Administration  
4 and 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 the fifteenth day of each  
6 February for the preceding year's achievements.

7 (f) (1) ~~Each~~ At any pari-mutuel thoroughbred horse track which  
8 has participated in the West Virginia Thoroughbred Development Fund  
9 for a period of more than four consecutive calendar years prior to  
10 December 31, 1992 shall provide at least one restricted race per  
11 racing day: *Provided*, That sufficient horses and funds are  
12 available. For purposes of this subsection, there are sufficient  
13 horses if there are at least seven single betting interests  
14 received for ~~the race:—~~ *Provided That*, up to two restricted races  
15 required by this subsection and at least nine single betting  
16 interests received for a third restricted race required by this  
17 subsection: *Provided*, That if sufficient horses and funds are  
18 available, any thoroughbred horse racetrack whose licensee  
19 participated in the Thoroughbred Development Fund for at least four  
20 consecutive calendar years prior to December 31, 1992, shall  
21 provide ~~two~~ three restricted races per racing day, at least one of  
22 which may be split at the discretion of the racing secretary. The  
23 restricted race required by this section must be included in the  
24 first nine races written in the condition book for that racing day.



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

4           (A) The racing secretary at each track;

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

7           (C) A member appointed by the West Virginia Thoroughbred  
8 Breeders Association.

9           (3) Restricted races shall be funded by each racing  
10 association from:

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

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

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

21           ~~(5) If less than seventy-five percent of the restricted races~~  
22 ~~required by this subsection fail to receive enough entries to race,~~  
23 ~~the Racing Commission shall, on a quarterly basis, dedicate funds~~  
24 ~~in each fund back to the general purse fund of the racing~~

1 ~~association or licensee: *Provided*, That no moneys may be dedicated~~  
2 ~~back to a general purse fund if the dedication would leave less~~  
3 ~~than \$250,000 in the fund.~~

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

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

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

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

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

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

23 (j) Beginning July 1, 2006, any racing association licensed by  
24 the Racing Commission to conduct thoroughbred racing and permitting

1 and conducting pari-mutuel wagering under the provisions of this  
2 article must have a West Virginia Thoroughbred Racing Breeders  
3 Program.

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.