

SB 550

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WEST VIRGINIA LEGISLATURE

Regular Session, 2002



ENROLLED

SENATE BILL NO. 550

(By Senator Bowman)



PASSED March 9, 2002

In Effect ninety days from Passage

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Senate Bill No. 550

(BY SENATOR BOWMAN)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article twenty-four, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to including live dog racing in the interstate compact on licensure of participants in live horse racing with pari-mutuel wagering.

Be it enacted by the Legislature of West Virginia:

That section one, article twenty-four, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 24. INTERSTATE COMPACT ON LICENSURE OF PARTICIPANTS
IN LIVE RACING WITH PARI-MUTUEL WAGERING.**

§19-24-1. Interstate compact on licensure of participants in live racing with pari-mutuel wagering; form of compact.

1 The interstate compact on licensure of participants in
2 live racing with pari-mutuel wagering is enacted into law
3 and entered into with all other jurisdictions legally joining
4 in the compact in the form substantially as follows:

ARTICLE I. PURPOSES.

§1. Purposes.

1 The purposes of this compact are to:

2 1. Establish uniform requirements among the party
3 states for the licensing of participants in live racing with
4 pari-mutuel wagering and ensure that all the participants
5 who are licensed pursuant to this compact meet a uniform
6 minimum standard of honesty and integrity.

7 2. Facilitate the growth of the racing industry in each
8 party state and nationwide by simplifying the process for
9 licensing participants in live racing and reduce the dupli-
10 cative and costly process of separate licensing by the
11 regulatory agency in each state that conducts live racing
12 with pari-mutuel wagering.

13 3. Authorize the West Virginia racing commission to
14 participate in this compact.

15 4. Provide for participation in this compact by officials
16 of the party states and permit those officials, through the
17 compact committee established by this compact, to enter
18 into contracts with governmental agencies and
19 nongovernmental persons to carry out the purposes of this
20 compact.

21 5. Establish the compact committee created by this
22 compact as an interstate governmental entity duly autho-
23 rized to request and receive criminal history record
24 information from the federal bureau of investigation and
25 other state and local law-enforcement agencies.

ARTICLE II. DEFINITIONS.

§2. Definitions.

1 "Compact committee" means the organization of
2 officials from the party states that is authorized and
3 empowered by this compact to carry out the purposes of
4 this compact.

5 "Official" means the appointed, elected, designated or
6 otherwise duly selected member of a racing commission or
7 the equivalent of a racing commission in a party state who
8 represents that party state as a member of the compact
9 committee.

10 "Participants in live racing" means participants in live
11 racing with pari-mutuel wagering in the party states.

12 "Party state" means each state that has enacted this
13 compact.

14 "State" means each of the several states of the United
15 States, the District of Columbia, the Commonwealth of
16 Puerto Rico and each territory or possession of the United
17 States.

ARTICLE III. ENTRY INTO FORCE, ELIGIBLE PARTIES AND WITHDRAWAL.

§3. Entry into force.

1 This compact shall come into force when enacted by any
2 four states. Thereafter, this compact shall become effective as to any other state upon: (i) That state's enactment
3 of this compact; and (ii) the affirmative vote of a majority
4 of the officials on the compact committee as provided in
5 section eight.
6

§4. States eligible to join compact.

1 Any state that has adopted or authorized racing with
2 pari-mutuel wagering is eligible to become party to this
3 compact.

§5. Withdrawal from compact and impact thereof on force and effect of compact.

1 Any party state may withdraw from this compact by
2 enacting a statute repealing this compact, but the with-
3 drawal does not become effective until the head of the
4 executive branch of the withdrawing state has given notice
5 in writing of the withdrawal to the head of the executive
6 branch of all other party states. If as a result of withdraw-
7 als participation in this compact decreases to less than
8 three party states, this compact is no longer in force and
9 effect unless and until there are at least three or more
10 party states again participating in this compact.

ARTICLE IV. COMPACT COMMITTEE.

§6. Compact committee established.

1 There is hereby created an interstate governmental
2 entity to be known as the "compact committee", which
3 shall be comprised of one official from the racing commis-
4 sion or its equivalent in each party state who shall be
5 appointed, serve and is subject to removal in accordance
6 with the laws of the party state he or she represents.
7 Pursuant to the laws of his or her party state, each official
8 shall have the assistance of his or her state's racing
9 commission or the equivalent of a racing commission in
10 considering issues related to licensing of participants in
11 live racing and in fulfilling his or her responsibilities as
12 the representative from his or her state to the compact
13 committee. If an official is unable to perform any duty in
14 connection with the powers and duties of the compact
15 committee, the racing commission or equivalent from his
16 or her state shall designate another of its members as an
17 alternate who shall serve in his or her place and represent
18 the party state as its official on the compact committee
19 until that racing commission or equivalent determines that
20 the original representative official is able once again to
21 perform his or her duties as that party state's representa-
22 tive official on the compact committee. The designation of
23 an alternate shall be communicated by the affected state's
24 racing commission or equivalent to the compact committee
25 as the committee's bylaws may provide.

§7. Powers and duties of compact committee.

1 In order to carry out the purposes of this compact, the
2 compact committee is hereby granted the power and duty
3 to:

4 1. Determine which categories of participants in live
5 horse racing, including, but not limited to, owners, train-
6 ers, jockeys, grooms, mutuel clerks, racing officials,
7 veterinarians and farriers, and determine which compara-
8 ble categories of participants in live dog racing and other
9 forms of live racing with pari-mutuel wagering in two (2)
10 or more of the party states, should be licensed by the
11 committee, and establish the requirements for the initial
12 licensure of applicants in each such category, the term of
13 the license for each category and the requirements for
14 renewal of licenses in each category: *Provided*, That with
15 regard to requests for criminal history record information
16 on each applicant for a license and with regard to the
17 effect of a criminal record on the issuance or renewal of a
18 license, the compact committee shall determine for each
19 category of participants in live racing which licensure
20 requirements for that category are, in its judgment, the
21 most restrictive licensure requirements of any party state
22 for that category and shall adopt licensure requirements
23 for that category that are, in its judgment, comparable to
24 those most restrictive requirements.

25 2. Investigate applicants for a license from the compact
26 committee and, as permitted by federal and state law,
27 gather information on the applicants, including criminal
28 history record information from the federal bureau of
29 investigation and relevant state and local law-enforcement
30 agencies and, where appropriate, from the royal Canadian
31 mounted police and law-enforcement agencies of other
32 countries, necessary to determine whether a license should
33 be issued under the licensure requirements established by
34 the committee as provided in paragraph one above. Only
35 officials on, and employees of, the compact committee may
36 receive and review the criminal history record information

37 and those officials and employees may use that informa-
38 tion only for the purposes of this compact. No such
39 official or employee may disclose or disseminate the
40 information to any person or entity other than another
41 official on or employee of the compact committee. The
42 fingerprints of each applicant for a license from the
43 compact committee shall be taken by the compact commit-
44 tee, its employees or its designee and, pursuant to Public
45 Law 92-544 or Public Law 100-413, shall be forwarded to
46 a state identification bureau, or to the association of
47 racing commissioners, international, an association of
48 state officials regulating pari-mutuel wagering designated
49 by the attorney general of the United States, for submis-
50 sion to the federal bureau of investigation for a criminal
51 history record check. The fingerprints may be submitted
52 on a fingerprint card or by electronic or other means
53 authorized by the federal bureau of investigation or other
54 receiving law-enforcement agency.

55 3. Issue licenses to, and renew the licenses of, partici-
56 pants in live racing listed in paragraph one of this section
57 who are found by the committee to have met the licensure
58 and renewal requirements established by the committee.
59 The compact committee does not have the power or
60 authority to deny a license. If it determines that an
61 applicant will not be eligible for the issuance or renewal of
62 a compact committee license, the compact committee shall
63 notify the applicant that it will not be able to process his
64 or her application further. The notification does not
65 constitute and shall not be considered to be the denial of
66 a license. Any such applicant has the right to present
67 additional evidence to, and to be heard by, the compact
68 committee, but the final decision on issuance or renewal of
69 the license shall be made by the compact committee using
70 the requirements established pursuant to paragraph one of
71 this section.

72 4. Enter into contracts or agreements with governmental
73 agencies and with nongovernmental persons to provide

74 personal services for its activities and other services as
75 may be necessary to effectuate the purposes of this com-
76 pact.

77 5. Create, appoint and abolish those offices, employ-
78 ments and positions, including an executive director, as it
79 considers necessary for the purposes of this compact,
80 prescribe their powers, duties and qualifications, hire
81 persons to fill those offices, employments and positions
82 and provide for the removal, term, tenure, compensation,
83 fringe benefits, retirement benefits and other conditions of
84 employment of its officers, employees and other positions.

85 6. Borrow, accept or contract for the services of person-
86 nel from any state, the United States, any other govern-
87 mental agency or from any person, firm, association,
88 corporation or other entity.

89 7. Acquire, hold and dispose of real and personal
90 property by gift, purchase, lease, license or in other similar
91 manner, in furtherance of the purposes of this compact.

92 8. Charge a fee to each applicant for an initial license or
93 renewal of a license.

94 9. Receive other funds through gifts, grants and appro-
95 priations.

§8. Voting requirements.

1 A. Each official shall be entitled to one vote on the
2 compact committee.

3 B. All action taken by the compact committee with
4 regard to the addition of party states as provided in
5 section three, the licensure of participants in live racing,
6 and the receipt and disbursement of funds requires a
7 majority vote of the total number of officials, or their
8 alternates, on the committee. All other action by the
9 compact committee requires a majority vote of those
10 officials, or their alternates, present and voting.

11 C. No action of the compact committee may be taken
12 unless a quorum is present. A majority of the officials, or
13 their alternates, on the compact committee constitutes a
14 quorum.

§9. Administration and management.

1 A. The compact committee shall elect annually from
2 among its members a chairman, a vice chairman and a
3 secretary/treasurer.

4 B. The compact committee shall adopt bylaws for the
5 conduct of its business by a two-thirds vote of the total
6 number of officials, or their alternates, on the committee
7 at that time and shall have the power by the same vote to
8 amend and rescind these bylaws. The committee shall
9 publish its bylaws in convenient form and shall file a copy
10 of the bylaws and a copy of any amendments to the bylaws
11 with the secretary of state or equivalent agency of each of
12 the party states.

13 C. The compact committee may delegate the day-to-day
14 management and administration of its duties and responsi-
15 bilities to an executive director and his or her support
16 staff.

17 D. Employees of the compact committee shall be
18 considered governmental employees.

**§10. Immunity from liability for performance of official respon-
sibilities and duties.**

1 No official of a party state or employee of the compact
2 committee may be held personally liable for any good faith
3 act or omission that occurs during the performance and
4 within the scope of his or her responsibilities and duties
5 under this compact.

ARTICLE V. RIGHTS AND RESPONSIBILITIES OF EACH PARTY STATE.

§11. Rights and responsibilities of each party state.

1 A. By enacting this compact, each party state:

2 1. Agrees: (i) To accept the decisions of the compact
3 committee regarding the issuance of compact committee
4 licenses to participants in live racing pursuant to the
5 committee's licensure requirements; and (ii) to reimburse
6 or otherwise pay the expenses of its official representative
7 on the compact committee or his or her alternate.

8 2. Agrees not to treat a notification to an applicant by
9 the compact committee under paragraph three of section
10 seven that the compact committee will not be able to
11 process his or her application further as the denial of a
12 license, or to penalize such an applicant in any other way
13 based solely on such a decision by the compact committee.

14 3. Reserves the right: (i) To charge a fee for the use of a
15 compact committee license in that state; (ii) to apply its
16 own standards in determining whether, on the facts of a
17 particular case, a compact committee license should be
18 suspended or revoked; (iii) to apply its own standards in
19 determining licensure eligibility, under the laws of that
20 party state, for categories of participants in live racing
21 that the compact committee determines not to license and
22 for individual participants in live racing who do not meet
23 the licensure requirements of the compact committee; and
24 (iv) to establish its own licensure standards for the
25 licensure of nonracing employees at horse and dog race-
26 tracks and employees at separate satellite wagering
27 facilities. Any party state that suspends or revokes a
28 compact committee license shall, through its racing
29 commission or the equivalent thereof or otherwise,
30 promptly notify the compact committee of that suspension
31 or revocation.

32 B. No party state may be held liable for the debts or
33 other financial obligations incurred by the compact
34 committee.

ARTICLE VI. CONSTRUCTION AND SEVERABILITY.

§12. Construction and severability.

1 This compact shall be liberally construed so as to
2 effectuate its purposes. The provisions of this compact
3 shall be severable and, if any phrase, clause, sentence or
4 provision of this compact is declared to be contrary to the
5 constitution of the United States or of any party state, or
6 the applicability of this compact to any government,
7 agency, person or circumstance is held invalid, the validity
8 of the remainder of this compact and the applicability
9 thereof to any government, agency, person or circumstance
10 shall not be affected thereby. If all or some portion of this
11 compact is held to be contrary to the constitution of any
12 party state, the compact shall remain in full force and
13 effect as to the remaining party states and in full force and
14 effect as to the state affected as to all severable matters.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within is approved this the 29th
Day of March, 2002.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/02

Time 3:00 pm