

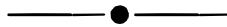
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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

House Bill No. 4523

(By Delegates Michael, Doyle,
G. White and Foster)



Passed March 13, 2004

In Effect Ninety Days from Passage

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

H. B. 4523

(BY DELEGATES MICHAEL, DOYLE,
G. WHITE AND FOSTER)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §19-23-3, §19-23-9, §19-23-10, §19-23-13 and §19-23-13b of the code of West Virginia, 1931, as amended, all relating to horse and dog racing generally; defining certain terms; allowing a yearling horse to be shipped from the state to obtain veterinary services without losing its status as an accredited thoroughbred horse; authorizing thoroughbred racetrack licensees to enter into agreements with local Horsemen's Benevolent and Protective Association for payment of up to two percent of purses actually paid for medical trusts for backstretch personnel and administrative fees; allowing certain racing associations or licensees qualifying for an alternate tax, when conducting more than one racing performance a day, to increase the number of races each performance may have to thirteen, before it must pay both the daily license tax and the alternative tax; requiring owners of accredited West Virginia whelped greyhounds to be both bona fide residents of West Virginia and registered for purposes of receiving funds from the greyhound breeding development fund; establishing qualifications to be considered a bona fide resident; establishing qualifications for considerations as an accredited West Virginia whelped

greyhound; providing breeding requirements for mares participating in the West Virginia futurity; and increasing the amount of restricted thoroughbred horse races in certain circumstances.

Be it enacted by the Legislature of West Virginia:

That §19-23-3, §19-23-9, §19-23-10, §19-23-13 and §19-23-13b of the code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 23. HORSE AND DOG RACING.

**PART VII. TAXATION OF HORSE AND DOG RACING AND
PARI-MUTUEL WAGERING; DISPOSITION OF REVENUES.**

§19-23-3. Definitions.

1 Unless the context in which used clearly requires a different
2 meaning, as used in this article:

3 (1) "Horse racing" means any type of horse racing, includ-
4 ing, but not limited to, thoroughbred racing and harness racing;

5 (2) "Thoroughbred racing" means flat or running type horse
6 racing in which each horse participating therein is a thorough-
7 bred and is mounted by a jockey;

8 (3) "Harness racing" means horse racing in which the
9 horses participating therein are harnessed to a sulky, carriage or
10 other vehicle and shall not include any form of horse racing in
11 which the horses are mounted by jockeys;

12 (4) "Horse race meeting" means the whole period of time
13 for which a license is required by the provisions of section one
14 of this article;

15 (5) "Dog racing" means any type of dog racing, including,
16 but not limited to, greyhound racing;

17 (6) "Purse" means any purse, stake or award for which a
18 horse or dog race is run;

19 (7) "Racing association" or "person" means any individual,
20 partnership, firm, association, corporation or other entity or
21 organization of whatever character or description;

22 (8) "Applicant" means any racing association making
23 application for a license under the provisions of this article or
24 any person making application for a permit under the provisions
25 of this article, or any person making application for a construc-
26 tion permit under the provisions of this article, as the case may
27 be;

28 (9) "License" means the license required by the provisions
29 of section one of this article;

30 (10) "Permit" means the permit required by the provisions
31 of section two of this article;

32 (11) "Construction permit" means the construction permit
33 required by the provisions of section eighteen of this article;

34 (12) "Licensee" means any racing association holding a
35 license required by the provisions of section one of this article
36 and issued under the provisions of this article;

37 (13) "Permit holder" means any person holding a permit
38 required by the provisions of section two of this article and
39 issued under the provisions of this article;

40 (14) "Construction permit holder" means any person
41 holding a construction permit required by the provisions of
42 section eighteen of this article and issued under the provisions
43 of this article;

44 (15) "Hold or conduct" includes "assist, aid or abet in
45 holding or conducting";

46 (16) "Racing commission" means the West Virginia racing
47 commission;

48 (17) "Stewards" means the steward or stewards represent-
49 ing the racing commission, the steward or stewards representing
50 a licensee and any other steward or stewards, whose duty it is
51 to supervise any horse or dog race meeting, all as may be
52 provided by reasonable rules and regulations of the racing
53 commission, and the reasonable rules and regulations shall
54 specify the number of stewards to be appointed, the method and
55 manner of their appointment and their powers, authority and
56 duties;

57 (18) "Pari-mutuel" means a mutuel or collective pool that
58 can be divided among those who have contributed their wagers
59 to one central agency, the odds to be reckoned in accordance to
60 the collective amounts wagered upon each contestant running
61 in a horse or dog race upon which the pool is made, but the total
62 to be divided among the first three contestants on the basis of
63 the number of wagers on these;

64 (19) "Pari-mutuel clerk" means any employee of a licensed
65 racing association who is responsible for the collection of
66 wagers, the distribution of moneys for winning pari-mutuel
67 tickets, verification of the validity of pari-mutuel tickets and
68 accounting for pari-mutuel funds;

69 (20) "Pool" means a combination of interests in a joint
70 wagering enterprise or a stake in such enterprise;

71 (21) "Legitimate breakage" is the percentage left over in the
72 division of a pool;

73 (22) "To the dime" means that wagers shall be figured and
74 paid to the dime;

75 (23) "Code" means the code of West Virginia, one thousand
76 nine hundred thirty-one, as heretofore and hereinafter amended;

77 (24) "Accredited thoroughbred horse" means a thorough-
78 bred horse that is: (a) Foaled in West Virginia; (b) sired by an
79 accredited West Virginia sire; or (c) as a yearling, finished
80 twelve consecutive months of verifiable residence in the state,
81 except for thirty days grace: (A) for the horse to be shipped to
82 and from horse sales where the horse is officially entered in the
83 sales catalogue of a recognized thoroughbred sales company, or
84 (B) for obtaining veterinary services, documented by veterinary
85 reports;

86 (25) "Accredited West Virginia sire" is a sire that is
87 permanently domiciled in West Virginia, stands a full season in
88 West Virginia and is registered with West Virginia thorough-
89 bred breeders association;

90 (26) "Breeder of an accredited West Virginia horse" is the
91 owner of the foal at the time it was born in West Virginia;

92 (27) "Raiser of an accredited West Virginia horse" is the
93 owner of the yearling at the time it finished twelve consecutive
94 months of verifiable residence in the state. During the period,
95 the raiser will be granted one month of grace for his or her
96 horse to be shipped to and from thoroughbred sales where the
97 horse is officially entered in the sales catalogue of a recognized
98 thoroughbred sales company. Prior to the horse being shipped
99 out of the state for sales, the raiser must notify the racing
100 commission of his or her intentions;

101 (28) The "owner of an accredited West Virginia sire" is the
102 owner of record at the time the offspring is conceived;

103 (29) The “owner of an accredited West Virginia horse”
104 means the owner at the time the horse earned designated purses
105 to qualify for restricted purse supplements provided for in
106 section thirteen-b of this article; and

107 (30) “Registered Greyhound Owner” means an owner of a
108 greyhound that is registered with the National Greyhound
109 Association.

110 (31) “Fund” means the West Virginia thoroughbred
111 development fund established in section thirteen-b of this
112 article.

113 (32) “Regular Purse” means both regular purses and stakes
114 purses.

**§19-23-9. Pari-mutuel system of wagering authorized; licensee
authorized to deduct commissions from pari-
mutuel pools; retention of breakage; auditing;
minors.**

1 (a) The pari-mutuel system of wagering upon the results of
2 any horse or dog race at any horse or dog race meeting con-
3 ducted or held by any licensee is hereby authorized, if and only
4 if such pari-mutuel wagering is conducted by the licensee
5 within the confines of the licensee’s horse racetrack or dog
6 racetrack, and the provisions of section one, article ten, chapter
7 sixty-one of this code, relating to gaming shall not apply to the
8 pari-mutuel system of wagering in manner and form as pro-
9 vided for in this article at any horse or dog race meeting within
10 this state where horse or dog racing shall be permitted for any
11 purse by any licensee. A licensee shall permit or conduct only
12 the pari-mutuel system of wagering within the confines of the
13 licensee’s racetrack at which any horse or dog race meeting is
14 conducted or held.

15 (b) A licensee is hereby expressly authorized to deduct a
16 commission from the pari-mutuel pools, as follows:

17 (1) The commission deducted by any licensee from the
18 pari-mutuel pools on thoroughbred horse racing, except from
19 thoroughbred horse racing pari-mutuel pools involving what is
20 known as multiple betting in which the winning pari-mutuel
21 ticket or tickets are determined by a combination of two or
22 more winning horses, shall not exceed seventeen and one-fourth
23 percent of the total of the pari-mutuel pools for the day. Out of
24 the commission, as is mentioned in this subdivision, the
25 licensee: (i) Shall pay the pari-mutuel pools tax provided for in
26 subsection (b), section ten of this article; (ii) shall make a
27 deposit into a special fund to be established by the licensee and
28 to be used for the payment of regular purses offered for
29 thoroughbred racing by the licensee, which deposits out of pari-
30 mutuel pools for each day during the months of January,
31 February, March, October, November and December shall be
32 seven and three hundred seventy-five one-thousandths percent
33 of the pari-mutuel pools and which, out of pari-mutuel pools for
34 each day during all other months, shall be six and eight hundred
35 seventy-five one-thousandths percent of the pari-mutuel pools,
36 which shall take effect beginning fiscal year one thousand nine
37 hundred ninety; (iii) shall, after allowance for the exclusion
38 given by subsection (b), section ten of this article, make a
39 deposit into a special fund to be established by the racing
40 commission and to be used for the payment of breeders, awards
41 and capital improvements as authorized by section thirteen-b of
42 this article, which deposits out of pari-mutuel pools shall from
43 the effective date of this section and for fiscal year one thou-
44 sand nine hundred eighty-five, be four-tenths percent; for fiscal
45 year one thousand nine hundred eighty-six, be seven-tenths
46 percent; for fiscal year one thousand nine hundred eighty-seven,
47 be one percent; for fiscal year one thousand nine hundred
48 eighty-eight, be one and one-half percent; and for fiscal year
49 one thousand nine hundred eighty-nine, and each year thereaf-

50 ter, be two percent of the pools; and (iv) shall pay one tenth of
51 one percent of the pari-mutuel pools into the general fund of the
52 county commission of the county in which the racetrack is
53 located, except if within a municipality, then to the municipal
54 general fund. The remainder of the commission shall be
55 retained by the licensee.

56 Each licensee that permits or conducts pari-mutuel wager-
57 ing at the licensee's thoroughbred horse racetrack shall annually
58 pay five hundred thousand dollars from the special fund
59 required by this section to be established by the licensee for the
60 payment of regular purses offered for thoroughbred racing by
61 the licensee into a special fund established by the racing
62 commission for transfer to a pension plan established by the
63 racing commission for all back-stretch personnel, including, but
64 not limited to, exercise riders, trainers, grooms and stable
65 forepersons licensed by the racing commission to participate in
66 horse racing in this state and their dependents.

67 Each thoroughbred racetrack licensee is authorized to enter
68 into an agreement with its local Horsemen's Benevolent and
69 Protective Association under which an agreed upon percentage
70 of up to two percent of purses actually paid during the preced-
71 ing month may be paid to the local Horsemen's Benevolent and
72 Protective Association from the special fund required by this
73 section for their respective medical trusts for backstretch
74 personnel and administrative fees.

75 The commission deducted by any licensee from the pari-
76 mutuel pools on thoroughbred horse racing involving what is
77 known as multiple betting in which the winning pari-mutuel
78 ticket or tickets are determined by a combination of two
79 winning horses shall not exceed nineteen percent and by a
80 combination of three or more winning horses shall not exceed
81 twenty-five percent of the total of such pari-mutuel pools for
82 the day. Out of the commission, as is mentioned in this para-

83 graph, the licensee: (i) Shall pay the pari-mutuel pools tax
84 provided for in subsection (b), section ten of this article; (ii)
85 shall make a deposit into a special fund to be established by the
86 licensee and to be used for the payment of regular purses
87 offered for thoroughbred racing by the licensee, which deposits
88 out of pari-mutuel pools for each day during the months of
89 January, February, March, October, November and December
90 for pools involving a combination of two winning horses shall
91 be eight and twenty-five one-hundredths percent and out of
92 pari-mutuel pools for each day during all other months shall be
93 seven and seventy-five one-hundredths percent of the pari-
94 mutuel pools; and involving a combination of three or more
95 winning horses for the months of January, February, March,
96 October, November and December the deposits out of the fund
97 shall be eleven and twenty-five one-hundredths percent of the
98 pari-mutuel pools; and which, out of pari-mutuel pools for each
99 day during all other months, shall be ten and seventy-five one-
100 hundredths percent of the pari-mutuel pools; (iii) shall, after
101 allowance for the exclusion given by subsection (b), section ten
102 of this article, make a deposit into a special fund to be estab-
103 lished by the racing commission and to be used for the payment
104 of breeders' awards and capital improvements as authorized by
105 section thirteen-b of this article, which deposits out of pari-
106 mutuel pools shall from the effective date of this section and for
107 fiscal year one thousand nine hundred eighty-five, be four-
108 tenths percent; for fiscal year one thousand nine hundred
109 eighty-six, be seven-tenths percent; for fiscal year one thousand
110 nine hundred eighty-seven, be one percent; for fiscal year one
111 thousand nine hundred eighty-eight, be one and one-half
112 percent; and for fiscal year one thousand nine hundred eighty-
113 nine, and each year thereafter, be two percent of the pools; and
114 (iv) shall pay one tenth of one percent of the pari-mutuel pools
115 into the general fund of the county commission of the county in
116 which the racetrack is located, except if within a municipality,

117 then to the municipal general fund. The remainder of the
118 commission shall be retained by the licensee.

119 The commission deducted by the licensee under this
120 subdivision may be reduced only by mutual agreement between
121 the licensee and a majority of the trainers and horse owners
122 licensed by subsection (a), section two of this article or their
123 designated representative. The reduction in licensee commis-
124 sions may be for a particular race, racing day or days or for a
125 horse race meeting. Fifty percent of the reduction shall be
126 retained by the licensee from the amounts required to be paid
127 into the special fund established by the licensee under the
128 provisions of this subdivision. The racing commission shall
129 promulgate any reasonable rules that are necessary to imple-
130 ment the foregoing provisions.

131 (2) The commission deducted by any licensee from the
132 pari-mutuel pools on harness racing shall not exceed seventeen
133 and one-half percent of the total of the pari-mutuel pools for the
134 day. Out of the commission the licensee shall pay the pari-
135 mutuel pools tax provided for in subsection (c), section ten of
136 this article and shall pay one tenth of one percent into the
137 general fund of the county commission of the county in which
138 the racetrack is located, except if within a municipality, then to
139 the municipal general fund. The remainder of the commission
140 shall be retained by the licensee.

141 (3) The commission deducted by any licensee from the
142 pari-mutuel pools on dog racing, except from dog racing pari-
143 mutuel pools involving what is known as multiple betting in
144 which the winning pari-mutuel ticket or tickets are determined
145 by a combination of two or more winning dogs, shall not
146 exceed sixteen and thirty one-hundredths percent of the total of
147 all pari-mutuel pools for the day. The commission deducted by
148 any licensee from the pari-mutuel pools on dog racing involv-
149 ing what is known as multiple betting in which the winning

150 pari-mutuel ticket or tickets are determined by a combination
151 of two winning dogs shall not exceed nineteen percent, by a
152 combination of three winning dogs shall not exceed twenty
153 percent, and by a combination of four or more winning dogs
154 shall not exceed twenty-one percent of the total of such pari-
155 mutuel pools for the day. The foregoing commissions are in
156 effect for the fiscal years one thousand nine hundred ninety and
157 one thousand nine hundred ninety-one. Thereafter, the commis-
158 sion shall be at the percentages in effect prior to the effective
159 date of this article unless the Legislature, after review, deter-
160 mines otherwise. Out of the commissions, the licensee shall pay
161 the pari-mutuel pools tax provided for in subsection (d), section
162 ten of this article and one tenth of one percent of such pari-
163 mutuel pools into the general fund of the county commission of
164 the county in which the racetrack is located. In addition, out of
165 the commissions, if the racetrack is located within a municipal-
166 ity, then the licensee shall also pay three tenths of one percent
167 of the pari-mutuel pools into the general fund of the municipal-
168 ity; or, if the racetrack is located outside of a municipality, then
169 the licensee shall also pay three tenths of one percent of the
170 pari-mutuel pools into the state road fund for use by the
171 division of highways in accordance with the provisions of this
172 subdivision. The remainder of the commission shall be retained
173 by the licensee.

174 For the purposes of this section, "municipality" means and
175 includes any Class I, Class II and Class III city and any Class
176 IV town or village incorporated as a municipal corporation
177 under the laws of this state prior to the first day of January, one
178 thousand nine hundred eighty-seven.

179 Each dog racing licensee, when required by the provisions
180 of this subdivision to pay a percentage of its commissions to the
181 state road fund for use by the division of highways, shall
182 transmit the required funds, in such manner and at such times
183 as the racing commission shall by procedural rule direct, to the

184 state treasurer for deposit in the state treasury to the credit of
185 the division of highways state road fund. All funds collected
186 and received in the state road fund pursuant to the provisions of
187 this subdivision shall be used by the division of highways in
188 accordance with the provisions of article seventeen-a, chapter
189 seventeen of this code for the acquisition of right-of-way for,
190 the construction of, the reconstruction of and the improvement
191 or repair of any interstate or other highway, secondary road,
192 bridge and toll road in the state. If on the first day of July, one
193 thousand nine hundred eighty-nine, any area encompassing a
194 dog racetrack has incorporated as a Class I, Class II or Class III
195 city or as a Class IV town or village, whereas such city, town or
196 village was not incorporated as such on the first day of January,
197 one thousand nine hundred eighty-seven, then on and after the
198 first day of July, one thousand nine hundred eighty-nine, any
199 balances in the state road fund existing as a result of payments
200 made under the provisions of this subdivision may be used by
201 the state road fund for any purpose for which other moneys in
202 the fund may lawfully be used, and in lieu of further payments
203 to the state road fund, the licensee of a racetrack which is
204 located in the municipality shall thereafter pay three tenths of
205 one percent of the pari-mutuel pools into the general fund of the
206 municipality. If no incorporation occurs before the first day of
207 July, one thousand nine hundred eighty-nine, then payments to
208 the state road fund shall thereafter continue as provided for
209 under the provisions of this subdivision.

210 A dog racing licensee, before deducting the commissions
211 authorized by this subdivision, shall give written notification to
212 the racing commission not less than thirty days prior to any
213 change in the percentage rates for the commissions. The racing
214 commission shall prescribe blank forms for filing the notifica-
215 tion. The notification shall disclose the following: (A) The
216 revised commissions to be deducted from the pari-mutuel pools
217 each day on win, place and show betting and on different forms
218 of multiple bettings; (B) the dates to be included in the revised

219 betting; (C) such other information as may be required by the
220 racing commission.

221 The licensee shall establish a special fund to be used only
222 for capital improvements or long-term debt amortization or
223 both: *Provided*, That any licensee, heretofore licensed for a
224 period of eight years prior to the effective date of the amend-
225 ment made to this section during the regular session of the
226 Legislature held in the year one thousand nine hundred eighty-
227 seven, shall establish the special fund to be used only for capital
228 improvements or physical plant maintenance, or both, at the
229 licensee's licensed facility or at the licensee's commonly
230 owned racing facility located within this state. Deposits made
231 into the funds shall be in an amount equal to twenty-five
232 percent of the increased rate total over and above the applicable
233 rate in effect as of the first day of January, one thousand nine
234 hundred eighty-seven, of the pari-mutuel pools for the day. Any
235 amount deposited into the funds must be expended or liability
236 therefor incurred within a period of two years from the date of
237 deposit. Any funds not expended shall be transferred immedi-
238 ately into the state general fund after expiration of the two-year
239 period.

240 The licensee shall make a deposit into a special fund
241 established by the licensee and used for payment of regular
242 purses offered for dog racing, which deposits out of the
243 licensee's commissions for each day shall be three and seventy-
244 five one-hundredths percent of the pari-mutuel pools.

245 The licensee shall further establish a special fund to be used
246 exclusively for marketing and promotion programs; the funds
247 shall be in an amount equal to five percent over and above the
248 applicable rates in effect as of the first day of January, one
249 thousand nine hundred eighty-seven of the total pari-mutuel
250 pools for the day.

251 The racing commission shall prepare and transmit annually
252 to the governor and the Legislature a report of the activities of
253 the racing commission under this subdivision. The report shall
254 include a statement of: The amount of commissions retained by
255 licensees; the amount of taxes paid to the state; the amounts
256 paid to municipalities, counties and the division of highways
257 dog racing fund; the amounts deposited by licensees into
258 special funds for capital improvements or long-term debt
259 amortization and a certified statement of the financial condition
260 of any licensee depositing into the fund; the amounts paid by
261 licensees into special funds and used for regular purses offered
262 for dog racing; the amounts paid by licensees into special funds
263 and used for marketing and promotion programs; and such
264 other information as the racing commission may consider
265 appropriate for review.

266 (c) In addition to any commission, a licensee of horse race
267 or dog race meetings shall also be entitled to retain the legiti-
268 mate breakage, which shall be made and calculated to the dime,
269 and from the breakage, the licensee of a horse race meeting
270 (excluding dog race meetings), shall deposit daily fifty percent
271 of the total of the breakage retained by the licensee into the
272 special fund created pursuant to the provisions of subdivision
273 (1), subsection (b) of this section for the payment of regular
274 purses.

275 (d) The director of audit, and any other auditors employed
276 by the racing commission who are also certified public accoun-
277 tants or experienced public accountants, shall have free access
278 to the space or enclosure where the pari-mutuel system of
279 wagering is conducted or calculated at any horse or dog race
280 meeting for the purpose of ascertaining whether or not the
281 licensee is deducting and retaining only a commission as
282 provided in this section and is otherwise complying with the
283 provisions of this section. They shall also, for the same pur-
284 poses only, have full and free access to all records and papers

285 pertaining to the pari-mutuel system of wagering and shall
286 report to the racing commission in writing, under oath, whether
287 or not the licensee has deducted and retained any commission
288 in excess of that permitted under the provisions of this section
289 or has otherwise failed to comply with the provisions of this
290 section.

291 (e) No licensee shall permit or allow any individual under
292 the age of eighteen years to wager at any horse or dog racetrack,
293 knowing or having reason to believe that the individual is under
294 the age of eighteen years.

295 (f) Notwithstanding the foregoing provisions of subdivision
296 (1), subsection (b) of this section, to the contrary, a thorough-
297 bred licensee qualifying for and paying the alternate reduced
298 tax on pari-mutuel pools provided in section ten of this article
299 shall distribute the commission authorized to be deducted by
300 subdivision (1), subsection (b) of this section as follows: (i) The
301 licensee shall pay the alternate reduced tax provided in section
302 ten of this article; (ii) the licensee shall pay one tenth of one
303 percent of the pari-mutuel pools into the general fund of the
304 county commission of the county in which the racetrack is
305 located, except if within a municipality, then to the municipal
306 general fund; (iii) the licensee shall pay one half of the remain-
307 der of the commission into the special fund established by the
308 licensee and to be used for the payment of regular purses
309 offered for thoroughbred racing by the licensee; and (iv) the
310 licensee shall retain the amount remaining after making the
311 payments required in this subsection.

312 (g) Each kennel which provides or races dogs owned or
313 leased by others shall furnish to the commission a surety bond
314 in an amount to be determined by the commission to secure the
315 payment to the owners or lessees of the dogs the portion of any
316 purse owed to the owner or lessee.

§19-23-10. Daily license tax; pari-mutuel pools tax; how taxes paid; alternate tax; credits.

1 (a) Any racing association conducting thoroughbred racing
2 at any horse racetrack in this state shall pay each day upon
3 which horse races are run a daily license tax of two hundred
4 fifty dollars. Any racing association conducting harness racing
5 at any horse racetrack in this state shall pay each day upon
6 which horse races are run a daily license tax of one hundred
7 fifty dollars. Any racing association conducting dog races shall
8 pay each day upon which dog races are run a daily license tax
9 of one hundred fifty dollars. In the event thoroughbred racing,
10 harness racing, dog racing, or any combination of the foregoing
11 are conducted on the same day at the same racetrack by the
12 same racing association, only one daily license tax in the
13 amount of two hundred fifty dollars shall be paid for that day.
14 Any daily license tax shall not apply to any local, county or
15 state fair, horse show or agricultural or livestock exposition at
16 which horse racing is conducted for not more than six days.

17 (b) Any racing association licensed by the racing commis-
18 sion to conduct thoroughbred racing and permitting and
19 conducting pari-mutuel wagering under the provisions of this
20 article shall, in addition to the daily license tax set forth in
21 subsection (a) of this section, pay to the racing commission,
22 from the commission deducted each day by the licensee from
23 the pari-mutuel pools on thoroughbred racing a tax calculated
24 on the total daily contribution of all pari-mutuel pools con-
25 ducted or made at any and every thoroughbred race meeting of
26 the licensee licensed under the provisions of this article. The
27 tax, on the pari-mutuel pools conducted or made each day
28 during the months of January, February, March, October,
29 November and December, shall from the effective date of this
30 section and for fiscal year one thousand nine hundred eighty-
31 five be calculated at two and six-tenths percent; for fiscal year
32 one thousand nine hundred eighty-six, be calculated at two and

33 three-tenths percent; for fiscal year one thousand nine hundred
34 eighty-seven, be calculated at two percent of the pool; for fiscal
35 year one thousand nine hundred eighty-eight, be calculated at
36 one and one-half percent; for fiscal year one thousand nine
37 hundred eighty-nine, be calculated at one percent of the pool;
38 for fiscal year one thousand nine hundred ninety, seven tenths
39 of one percent, and for fiscal year one thousand nine hundred
40 ninety-one and each fiscal year thereafter be calculated at four
41 tenths of one percent of the pool; and, on the pari-mutuel pools
42 conducted or made each day during all other months, shall from
43 the effective date of this section and for fiscal year one thou-
44 sand nine hundred eighty-five, be calculated at three and six-
45 tenths percent; for fiscal year one thousand nine hundred
46 eighty-six, be calculated at three and three-tenths percent; for
47 fiscal year one thousand nine hundred eighty-seven, be calcu-
48 lated at three percent of the pool; for fiscal year one thousand
49 nine hundred eighty-eight, be calculated at two and one-half
50 percent; for fiscal year one thousand nine hundred eighty-nine,
51 be calculated at two percent of the pool; for fiscal year one
52 thousand nine hundred ninety, be calculated at one and seven-
53 tenths percent of the pool; and for fiscal year one thousand nine
54 hundred ninety-one and each fiscal year thereafter, be calcu-
55 lated at one and four-tenths percent of the pool: *Provided*, That
56 out of the amount realized from the three tenths of one percent
57 decrease in the tax effective for fiscal year one thousand nine
58 hundred ninety-one and thereafter, which decrease correspond-
59 ingly increases the amount of commission retained by the
60 licensee, the licensee shall annually expend or dedicate: (i) One
61 half of the realized amount for capital improvements in its barn
62 area at the track, subject to the racing commission's prior
63 approval of the plans for the improvements; and (ii) the
64 remaining one half of the realized amount for capital improve-
65 ments as the licensee may determine appropriate at the track.
66 The term "capital improvement" shall be as defined by the
67 Internal Revenue Code: *Provided, however*, That any racing

68 association operating a horse racetrack in this state having an
69 average daily pari-mutuel pool on horse racing of two hundred
70 eighty thousand dollars or less per day for the race meetings of
71 the preceding calendar year shall, in lieu of payment of the pari-
72 mutuel pool tax, calculated as in this subsection, be permitted
73 to conduct pari-mutuel wagering at the horse racetrack on the
74 basis of a daily pari-mutuel pool tax fixed as follows: On the
75 daily pari-mutuel pool not exceeding three hundred thousand
76 dollars the daily pari-mutuel pool tax shall be one thousand
77 dollars plus the otherwise applicable percentage rate imposed
78 by this subsection of the daily pari-mutuel pool, if any, in
79 excess of three hundred thousand dollars: *Provided further,*
80 That upon the effective date of the reduction of the daily pari-
81 mutuel pool tax to one thousand dollars from the former two
82 thousand dollars, the association or licensee shall daily deposit
83 five hundred dollars into the special fund for regular purses
84 established by subdivision (1), subsection (b), section nine of
85 this article: *And provided further,* That if an association or
86 licensee qualifying for the foregoing alternate tax conducts
87 more than one racing performance, each consisting of up to
88 thirteen races in a calendar day, the association or licensee shall
89 pay both the daily license tax imposed in subsection (a) of this
90 section and the alternate tax in this subsection for each perfor-
91 mance: *And provided further,* That a licensee qualifying for the
92 foregoing alternate tax is excluded from participation in the
93 fund established by section thirteen-b of this article: *And*
94 *provided further,* That this exclusion shall not apply to any
95 thoroughbred racetrack at which the licensee has participated in
96 the West Virginia thoroughbred development fund for more
97 than four consecutive years prior to the thirty-first day of
98 December, one thousand nine hundred ninety-two.

99 (c) Any racing association licensed by the racing commis-
100 sion to conduct harness racing and permitting and conducting
101 pari-mutuel wagering under the provisions of this article shall,
102 in addition to the daily license tax required under subsection (a)

103 of this section, pay to the racing commission, from the commis-
104 sion deducted each day by the licensee from the pari-mutuel
105 pools on harness racing, as a tax, three percent of the first one
106 hundred thousand dollars wagered, or any part thereof; four
107 percent of the next one hundred fifty thousand dollars; and five
108 and three-fourths percent of all over that amount wagered each
109 day in all pari-mutuel pools conducted or made at any and
110 every harness race meeting of the licensee licensed under the
111 provisions of this article.

112 (d) Any racing association licensed by the racing commis-
113 sion to conduct dog racing and permitting and conducting pari-
114 mutuel wagering under the provisions of this article shall, in
115 addition to the daily license tax required under subsection (a) of
116 this section, pay to the racing commission, from the commis-
117 sion deducted each day by the licensee from the pari-mutuel
118 pools on dog racing, as a tax, four percent of the first fifty
119 thousand dollars or any part thereof of the pari-mutuel pools,
120 five percent of the next fifty thousand dollars of the pari-mutuel
121 pools, six percent of the next one hundred thousand dollars of
122 the pari-mutuel pools, seven percent of the next one hundred
123 fifty thousand dollars of the pari-mutuel pools, and eight
124 percent of all over three hundred fifty thousand dollars wagered
125 each day: *Provided*, That the licensee shall deduct daily from
126 the pari-mutuel tax an amount equal to one tenth of one percent
127 of the daily pari-mutuel pools in dog racing in fiscal year one
128 thousand nine hundred ninety; fifteen hundredths of one percent
129 in fiscal year one thousand nine hundred ninety-one; two tenths
130 of one percent in fiscal year one thousand nine hundred ninety-
131 two; one quarter of one percent in fiscal year one thousand nine
132 hundred ninety-three; and three tenths of one percent in fiscal
133 year one thousand nine hundred ninety-four and every fiscal
134 year thereafter. The amounts deducted shall be paid to the
135 racing commission to be deposited by the racing commission in
136 a banking institution of its choice in a special account to be
137 known as "West Virginia Racing Commission-Special Ac-

138 count-West Virginia Greyhound Breeding Development Fund”.

139 The purpose of the fund is to promote better breeding and
140 racing of greyhounds in the state through awards and purses to
141 bona fide resident registered greyhound owners of accredited
142 West Virginia whelped greyhounds. In order to be eligible to
143 receive an award or purse through the fund, the registered
144 greyhound owner of the accredited West Virginia whelped
145 greyhound must be a bonafide resident of this state. To qualify
146 as a bona fide resident of West Virginia, a registered greyhound
147 owner may not claim residency in any other state. A registered
148 greyhound owner must prove bona fide residency by providing
149 to the commission personal income tax returns filed in the state
150 of West Virginia for the most recent tax year and the three
151 previous tax years, has real or personal property in this state on
152 which the owner has paid real or personal property taxes during
153 the most recent tax year and the previous three tax years and an
154 affidavit stating that the owner claims no other state of resi-
155 dency. The racing commission and the West Virginia registered
156 greyhound owners and breeders association shall maintain a
157 registry for West Virginia bred greyhounds. The moneys shall
158 be expended by the racing commission for purses for stake
159 races, supplemental purse awards, administration, promotion
160 and educational programs involving West Virginia whelped
161 dogs, owned by residents of this state under rules promulgated
162 by the racing commission. The racing commission shall pay out
163 of the greyhound breeding development fund to each of the
164 licensed dog racing tracks the sum of seventy-five thousand
165 dollars for the fiscal year ending the thirtieth day of June, one
166 thousand nine hundred ninety-four. The licensee shall deposit
167 the sum into the special fund for regular purses established
168 under the provisions of section nine of this article. The funds
169 shall be expended solely for the purpose of supplementing
170 regular purses under rules promulgated by the racing commis-
171 sion.

172 Supplemental purse awards will be distributed as follows:
173 Supplemental purses shall be paid directly to the registered
174 greyhound owner of an accredited greyhound.

175 The registered greyhound owner of accredited West
176 Virginia whelped greyhounds that earn a purse at any West
177 Virginia meet will receive a bonus award calculated at the end
178 of each month as a percentage of the fund dedicated to the
179 owners as purse supplements, which shall be a minimum of
180 fifty percent of the total moneys deposited into the West
181 Virginia greyhound breeding development fund monthly.

182 The total amount of the fund available for the owners'
183 awards shall be distributed according to the ratio of purses
184 earned by an accredited greyhound to the total amount earned
185 in races by all accredited West Virginia whelped greyhounds
186 for that month as a percentage of the funds dedicated to the
187 owners' purse supplements.

188 The registered greyhound owner of an accredited West
189 Virginia whelped greyhound shall file a purse distribution form
190 with the racing commission for a percentage of his or her dog's
191 earnings to be paid directly to the registered greyhound owner
192 or owners of the greyhound. Distribution shall be made on the
193 fifteenth day of each month for the preceding month's achieve-
194 ments.

195 In no event shall purses earned at a meet held at a track
196 which did not make contributions to the West Virginia grey-
197 hound breeder's development fund out of the daily pool on the
198 day the meet was held qualify or count toward eligibility for
199 supplemental purse awards.

200 Any balance in the purse supplement funds after all
201 distributions have been made for the year revert to the general
202 account of the fund for distribution in the following year.

203 In an effort to further promote the breeding of quality West
204 Virginia whelped greyhounds, a bonus purse supplement shall
205 be established in the amount of fifty thousand dollars per
206 annum, to be paid in equal quarterly installments of twelve
207 thousand five hundred dollars per quarter using the same
208 method to calculate and distribute these funds as the regular
209 supplemental purse awards. This bonus purse supplement is for
210 three years only, commencing on the first day of July, one
211 thousand nine hundred ninety-three, and ending the thirtieth day
212 of June, one thousand nine hundred ninety-six. This money
213 would come from the current existing balance in the greyhound
214 development fund.

215 Each pari-mutuel greyhound track shall provide stakes
216 races for accredited West Virginia whelped greyhounds:
217 *Provided*, That each pari-mutuel track shall have one juvenile
218 and one open stake race annually. The racing commission shall
219 oversee and approve racing schedules and purse amounts.

220 Ten percent of the deposits into the greyhound breeding
221 development fund beginning the first day of July, one thousand
222 nine hundred ninety-three and continuing each year thereafter,
223 shall be withheld by the racing commission and placed in a
224 special revenue account hereby created in the state treasury
225 called the "administration, promotion and educational account".
226 The racing commission is authorized to expend the moneys
227 deposited in the administration, promotion and educational
228 account at such times and in such amounts as the commission
229 determines to be necessary for purposes of administering and
230 promoting the greyhound development program: *Provided*, That
231 beginning with fiscal year one thousand nine hundred
232 ninety-five and in each fiscal year thereafter in which the
233 commission anticipates spending any money from the account,
234 the commission shall submit to the executive department during
235 the budget preparation period prior to the Legislature convening
236 before that fiscal year for inclusion in the executive budget

237 document and budget bill, the recommended expenditures, as
238 well as requests of appropriations for the purpose of administra-
239 tion, promotion and education. The commission shall make an
240 annual report to the Legislature on the status of the administra-
241 tion, promotion and education account, including the previous
242 year's expenditures and projected expenditures for the next
243 year.

244 The racing commission, for the fiscal year one thousand
245 nine hundred ninety-four only, may expend up to thirty-five
246 thousand dollars from the West Virginia greyhound breeding
247 development fund to accomplish the purposes of this section
248 without strictly following the requirements in the previous
249 paragraph.

250 (e) All daily license and pari-mutuel pools tax payments
251 required under the provisions of this section shall be made to
252 the racing commission or its agent after the last race of each
253 day of each horse or dog race meeting, and the pari-mutuel
254 pools tax payments shall be made from all contributions to all
255 pari-mutuel pools to each and every race of the day.

256 (f) Every association or licensee subject to the provisions
257 of this article, including the changed provisions of sections nine
258 and ten of this article, shall annually submit to the racing
259 commission and the Legislature financial statements, including
260 a balance sheet, income statement, statement of change in
261 financial position and an audit of any electronic data system
262 used for pari-mutuel tickets and betting, prepared in accordance
263 with generally accepted auditing standards, as certified by an
264 experienced public accountant or a certified public accountant.

**§19-23-13. Disposition of funds for payment of outstanding and
unredeemed pari-mutuel tickets; publication of
notice; irredeemable tickets; stake races for dog
tracks.**

1 (a) All moneys held by any licensee for the payment of
2 outstanding and unredeemed pari-mutuel tickets, if not claimed
3 within ninety days after the close of a horse or dog race meeting
4 or the televised racing day, as the case may be, in connection
5 with which the tickets were issued, shall be turned over by the
6 licensee to the racing commission within fifteen days after the
7 expiration of the ninety-day period, and the licensee shall give
8 any information required by the racing commission concerning
9 the outstanding and unredeemed tickets. The moneys shall be
10 deposited by the racing commission in a banking institution of
11 its choice in a special account to be known as "West Virginia
12 Racing Commission Special Account - Unredeemed Pari-
13 Mutuel Tickets." Notice of the amount, date and place of each
14 deposit shall be given by the racing commission, in writing, to
15 the state treasurer. The racing commission shall then cause to
16 be published a notice to the holders of the outstanding and
17 unredeemed pari-mutuel tickets, notifying them to present their
18 unredeemed tickets for payment at the principal office of the
19 racing commission within ninety days from the date of the
20 publication of the notice. The notice shall be published within
21 fifteen days following the receipt of the outstanding and
22 unredeemed pari-mutuel ticket moneys by the commission from
23 the licensee as a Class I legal advertisement in compliance with
24 the provisions of article three, chapter fifty-nine of this code,
25 and the publication area for the publication shall be the county
26 in which the horse or dog race meeting was held and the county
27 in which the televised racing day wagering was conducted in
28 this state.

29 (b) Any outstanding and unredeemed pari-mutuel tickets
30 that are not presented for payment within ninety days from the
31 date of the publication of the notice are thereafter irredeemable,
32 and the moneys theretofore held for the redemption of the pari-
33 mutuel tickets shall become the property of the racing commis-
34 sion and shall be expended as provided in this subsection. The

35 racing commission shall maintain separate accounts for each
36 licensee and shall record in each separate account the moneys
37 turned over by the licensee and the amount expended at the
38 licensee's track for the purposes set forth in this subsection. The
39 moneys in the West Virginia racing commission special account
40 - unredeemed pari-mutuel tickets shall be expended as follows:

41 (1) To the owner of the winning horse in any horse race at
42 a horse race meeting held or conducted by any licensee:
43 *Provided*, That the owner of the horse is at the time of the horse
44 race a bona fide resident of this state, a sum equal to ten percent
45 of the purse won by the horse at that race: *Provided, however*,
46 That in the event there are more than ten races in any perfor-
47 mance, the award to the resident owner of the winning horse
48 will be that fractional share of the purse with a numerator of
49 one and a denominator representing the number of races on the
50 day of the performance. The commission may require proof that
51 the owner was, at the time of the race, a bona fide resident of
52 this state. Upon proof by the owner that he or she filed a
53 personal income tax return in this state for the previous two
54 years and that he or she owned real or personal property in this
55 state and paid taxes in this state on real or personal property for
56 the previous two years, he or she shall be presumed to be a bona
57 fide resident of this state; and

58 (2) To the breeder (that is, the owner of the mare) of the
59 winning horse in any horse race at a horse race meeting held or
60 conducted by any licensee: *Provided*, That the mare foaled in
61 this state, a sum equal to ten percent of the purse won by the
62 horse: *Provided, however*, That in the event there are more than
63 ten races in any performance, the award to the breeder will be
64 that fractional share of the purse with a numerator of one and a
65 denominator representing the number of races on the day of the
66 performance; and

67 (3) To the owner of the stallion which sired the winning
68 horse in any horse race at a horse race meeting held or con-
69 ducted by any licensee: *Provided*, That the mare which foaled
70 the winning horse was served by a stallion standing and
71 registered in this state, a sum equal to ten percent of the purse
72 won by the horse: *Provided, however*, That in the event there
73 are more than ten races in any performance, the award to the
74 owner of the stallion will be percentage of the purse based upon
75 the fractional share represented by the number of races on the
76 day of the performance; and

77 (4) To those horse racing licensees not participating in the
78 thoroughbred development fund authorized in section thirteen-b
79 of this article, the unexpended balance of the licensee's account
80 not expended as provided in subdivisions (1), (2) and (3) of this
81 subsection: *Provided*, That all moneys distributed under this
82 subdivision shall be expended solely for capital improvements
83 at the licensee's track: *Provided, however*, That the capital
84 improvements must be approved, in writing, by the West
85 Virginia racing commission before funds are expended by the
86 licensee for that capital improvement; and

87 (5) When the moneys in the special account, known as the
88 West Virginia racing commission special account - unredeemed
89 pari-mutuel tickets will more than satisfy the requirements of
90 subdivisions (1), (2), (3) and (4) of this subsection, the West
91 Virginia racing commission shall have the authority to expend
92 the excess moneys from unredeemed horse racing pari-mutuel
93 tickets as purse money in any race conditioned exclusively for
94 West Virginia bred or sired horses, and to expend the excess
95 moneys from unredeemed dog racing pari-mutuel tickets in
96 supplementing purses and establishing stake races and dog
97 racing handicaps at the dog tracks: *Provided*, That subject to the
98 availability of funds, the commission shall, after the require-
99 ments of subdivisions (1), (2), (3) and (4) of this subsection
100 have been satisfied:

101 (A) Transfer annually two hundred thousand dollars to the
102 West Virginia racing commission special account - West
103 Virginia greyhound breeding development fund;

104 (B) Transfer annually two hundred thousand dollars into a
105 separate account to be used for stakes races for West Virginia
106 bred greyhounds at dog racetracks; and

107 (C) Transfer annually two hundred thousand dollars to a
108 trust maintained and administered by the organization which is
109 recognized by the West Virginia racing commission, pursuant
110 to a legislative rule proposed for promulgation by the commis-
111 sion and authorized by the Legislature, as the representative of
112 the majority of the active jockeys in West Virginia, for the
113 purpose of providing health and disability benefits to eligible
114 active or disabled West Virginia jockeys and their dependents
115 in accordance with eligibility criteria established by said
116 organization. For purposes of this section in determining health
117 benefits, an eligible active jockey is one who rides at least one
118 hundred mounts per calendar year of which fifty-one must be in
119 the state of West Virginia: *Provided*, That a jockey is not
120 eligible for health benefits if he or she receives health benefits
121 from any other state; and

122 (D) After all payments to satisfy the requirements of (A),
123 (B) and (C) of this proviso have been satisfied, the commission
124 shall have authority to transfer one hundred fifty thousand
125 dollars left from all uncashed pari-mutuel tickets to the trust
126 maintained and administered by the organization which is
127 recognized by the West Virginia racing commission, pursuant
128 to legislative rule proposed for promulgation by the commis-
129 sion and authorized by the Legislature as the representative of
130 the majority of the active jockeys in West Virginia.

131 (c) The commission shall submit to the legislative auditor
132 a quarterly report and accounting of the income, expenditures

133 and unobligated balance in the special account created by this
134 section known as the West Virginia racing commission special
135 account - unredeemed pari-mutuel tickets.

136 (d) Nothing contained in this article shall prohibit one
137 person from qualifying for all or more than one of the aforesaid
138 awards or for awards under section thirteen-b of this article.

139 (e) The cost of publication of the notice provided for in this
140 section shall be paid from the funds in the hands of the state
141 treasurer collected from the pari-mutuel pools' tax provided for
142 in section ten of this article, when not otherwise provided in the
143 budget; but no such costs shall be paid unless an itemized
144 account thereof, under oath, be first filed with the state auditor.

145 (f) The racing commission is authorized to promulgate
146 emergency rules, prior to the first day of July, two thousand
147 four, to incorporate the revisions to this article enacted during
148 the two thousand four regular legislative session.

**§19-23-13b. West Virginia thoroughbred development fund;
distribution; restricted races; nonrestricted purse
supplements; preference for West Virginia ac-
credited thoroughbreds.**

1 (a) The racing commission shall deposit moneys required
2 to be withheld by an association or licensee in subsection (b),
3 section nine of this article in a banking institution of its choice
4 in a special account to be known as "West Virginia racing
5 commission special account — West Virginia thoroughbred
6 development fund." Notice of the amount, date and place of the
7 deposit shall be given by the racing commission, in writing, to
8 the state treasurer. The purpose of the fund is to promote better
9 breeding and racing of thoroughbred horses in the state through
10 awards and purses for accredited breeders/raisers, sire owners
11 and thoroughbred race horse owners. A further objective of the
12 fund is to aid in the rejuvenation and development of the

13 present horse tracks now operating in West Virginia for capital
14 improvements, operations or increased purses: *Provided*, That
15 five percent of the deposits required to be withheld by an
16 association or licensee in subsection (b), section nine of this
17 article shall be placed in a special revenue account hereby
18 created in the state treasury called the “administration and
19 promotion account.”

20 (b) The racing commission is authorized to expend the
21 moneys deposited in the administration and promotion account
22 at times and in amounts as the commission determines to be
23 necessary for purposes of administering and promoting the
24 thoroughbred development program: *Provided*, That during any
25 fiscal year in which the commission anticipates spending any
26 money from the account, the commission shall submit to the
27 executive department during the budget preparation period prior
28 to the Legislature convening before that fiscal year for inclusion
29 in the executive budget document and budget bill the recom-
30 mended expenditures, as well as requests of appropriations for
31 the purpose of administration and promotion of the program.
32 The commission shall make an annual report to the Legislature
33 on the status of the administration and promotion account,
34 including the previous year’s expenditures and projected
35 expenditures for the next year.

36 (c) The fund and the account established in subsection (a)
37 of this section shall operate on an annual basis.

38 (d) Funds in the thoroughbred development fund shall be
39 expended for awards and purses except as otherwise provided
40 in this section. Annually, the first three hundred thousand
41 dollars of the fund shall be available for distribution for stakes
42 races. One of the stakes races shall be the West Virginia futurity
43 and the second shall be the Frank Gall memorial stakes. For the
44 purpose of participating in the West Virginia futurity only, all
45 mares, starting with the breeding season beginning the first day

46 of February through the thirty-first day of July, two thousand
47 four, and each successive breeding season thereafter shall be
48 bred back that year to an accredited West Virginia stallion only
49 which is registered with the West Virginia thoroughbred
50 breeders association. The remaining races may be chosen by the
51 committee set forth in subsection (g) of this section.

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

53 (1) The breeders/raisers of accredited thoroughbred horses
54 that earn a purse at any West Virginia meet shall receive a
55 bonus award calculated at the end of the year as a percentage of
56 the fund dedicated to the breeders/raisers, which shall be sixty
57 percent of the fund available for distribution in any one year.
58 The total amount available for the breeders'/raisers' awards
59 shall be distributed according to the ratio of purses earned by an
60 accredited race horse to the total amount earned in the races by
61 all accredited race horses for that year as a percentage of the
62 fund dedicated to the breeders/raisers. However, no
63 breeder/raiser may receive from the fund dedicated to breed-
64 ers'/raisers' awards an amount in excess of the earnings of the
65 accredited horse at West Virginia meets. In addition, should a
66 horse's breeder and raiser qualify for the same award on the
67 same horse, they will each be awarded one half of the proceeds.
68 The bonus referred to in this subdivision (1) may only be paid
69 on the first one hundred thousand dollars of any purse, and not
70 on any amounts in excess of the first one hundred thousand
71 dollars.

72 (2) The owner of a West Virginia sire of an accredited
73 thoroughbred horse that earns a purse in any race at a West
74 Virginia meet shall receive a bonus award calculated at the end
75 of the year as a percentage of the fund dedicated to sire owners,
76 which shall be fifteen percent of the fund available for distribu-
77 tion in any one year. The total amount available for the sire
78 owners' awards shall be distributed according to the ratio of

79 purses earned by the progeny of accredited West Virginia
80 stallions in the races for a particular stallion to the total purses
81 earned by the progeny of all accredited West Virginia stallions
82 in the races. However, no sire owner may receive from the fund
83 dedicated to sire owners an amount in excess of thirty-five
84 percent of the accredited earnings for each sire. The bonus
85 referred to in this subdivision (2) shall only be paid on the first
86 one hundred thousand dollars of any purse, and not on any
87 amounts in excess of the first one hundred thousand dollars.

88 (3) The owner of an accredited thoroughbred horse that
89 earns a purse in any race at a West Virginia meet shall receive
90 a restricted purse supplement award calculated at the end of the
91 year, which shall be twenty-five percent of the fund available
92 for distribution in any one year, based on the ratio of the
93 earnings in the races of a particular race horse to the total
94 amount earned by all accredited race horses in the races during
95 that year as a percentage of the fund dedicated to purse supple-
96 ments. However, the owners may not receive from the fund
97 dedicated to purse supplements an amount in excess of thirty-
98 five percent of the total accredited earnings for each accredited
99 race horse. The bonus referred to in this subdivision shall only
100 be paid on the first one hundred thousand dollars of any purse,
101 and not on any amounts in excess of the first one hundred
102 thousand dollars.

103 (4) In no event may purses earned at a meet held at a track
104 which did not make a contribution to the thoroughbred develop-
105 ment fund out of the daily pool on the day the meet was held
106 qualify or count toward eligibility for an award under this
107 subsection.

108 (5) Any balance in the breeders/raisers, sire owners and
109 purse supplement funds after yearly distributions shall first be
110 used to fund the races established in subsection (g) of this
111 section. Any amount not so used shall revert back into the

112 general account of the thoroughbred development fund for
113 distribution in the next year.

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

116 (f) The remainder, if any, of the thoroughbred development
117 fund that is not available for distribution in the program
118 provided for in subsection (e) of this section in any one year is
119 reserved for regular purses, marketing expenses and for capital
120 improvements in the amounts and under the conditions pro-
121 vided in this subsection (f).

122 (1) Fifty percent of the remainder shall be reserved for
123 payments into the regular purse fund established in subsection
124 (b), section nine of this article.

125 (2) Up to five hundred thousand dollars per year shall be
126 available for:

127 (A) Capital improvements at the eligible licensed horse
128 racing tracks in the state; and

129 (B) Marketing and advertising programs above and beyond
130 two hundred fifty thousand dollars for the eligible licensed
131 horse racing tracks in the state: *Provided*, That moneys shall be
132 expended for capital improvements or marketing and advertis-
133 ing purposes as described in this subsection only in accordance
134 with a plan filed with and receiving the prior approval of the
135 racing commission, and on a basis of fifty percent participation
136 by the licensee and fifty percent participation by moneys from
137 the fund, in the total cost of approved projects: *Provided*,
138 *however*, That funds approved for one track may not be used at
139 another track unless the first track ceases to operate or is
140 viewed by the commission as unworthy of additional invest-
141 ment due to financial or ethical reasons.

142 (g)(1) Each pari-mutuel thoroughbred horse track shall
143 provide at least one restricted race per racing day: *Provided*,
144 That sufficient horses and funds are available.

145 (2) The restricted races established in this subsection shall
146 be administered by a three-member committee consisting of:

147 (A) The racing secretary;

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

151 (C) A member appointed by a majority of the thoroughbred
152 breeders.

153 (3) The purses for the restricted races established in this
154 subsection shall be twenty percent larger than the purses for
155 similar type races at each track.

156 (4) Restricted races shall be funded by each racing associa-
157 tion from:

158 (A) Moneys placed in the general purse fund up to a
159 maximum of three hundred fifty thousand dollars per year.

160 (B) Moneys as provided in subdivision (5), subsection (e)
161 of this section, which shall be placed in a special fund called the
162 “West Virginia accredited race fund.”

163 (5) The racing schedules, purse amounts and types of races
164 are subject to the approval of the West Virginia racing commis-
165 sion.

166 (h) As used in this section, “West Virginia bred-foal”
167 means a horse that was born in the state of West Virginia.

168 (i) To qualify for the West Virginia accredited race fund,
169 the breeder must qualify under one of the following:

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

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

175 (3) The breeder of the West Virginia bred-foal is not a West
176 Virginia resident and does not qualify under subdivision (2) of
177 this subsection, but either the sire of the West Virginia bred-
178 foal is a West Virginia stallion, or the mare is covered by a
179 West Virginia stallion following the birth of that West Virginia
180 bred-foal.

181 (j) No association or licensee qualifying for the alternate
182 tax provision of subsection (b), section ten of this article is
183 eligible for participation in any of the provisions of this section:
184 *Provided*, That the provisions of this subsection do not apply to
185 a thoroughbred race track at which the licensee has participated
186 in the West Virginia thoroughbred development fund for a
187 period of more than four consecutive calendar years prior to the
188 thirty-first day of December, one thousand nine hundred
189 ninety-two.

190 (k) From the first day of July, two thousand one, West
191 Virginia accredited thoroughbred horses have preference for
192 entry in all accredited races at a thoroughbred race track at
193 which the licensee has participated in the West Virginia
194 thoroughbred development fund for a period of more than four
195 consecutive calendar years prior to the thirty-first day of
196 December, one thousand nine hundred ninety-two.

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

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 4th
day of April, 2004.

Governor

PRESENTED TO THE
GOVERNOR

Date 4/2/04

Time 2:15 p