

HB 2406 S

FILED

2007 APR -4 PM 5: 46

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2007



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 2406**

(By Delegates DeLong, Tabb, Doyle and Wysong)



Passed March 10, 2007

In Effect Ninety Days from Passage

FILED

**E N R O L L E D**

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COMMITTEE SUBSTITUTE

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SECRETARY OF STATE

FOR

# **H. B. 2406**

(BY DELEGATES DELONG, TABB, DOYLE AND WYSONG)

[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §19-23-3 of the Code of West Virginia, 1931, as amended, and to amend and reenact §19-23-10 and §19-23-13b of said code, all relating to horse and dog racing generally; providing that in the event a yearling was born in another state and transported to this state, the definition of "Raiser of an accredited West Virginia horse" does not apply to any pari-mutuel racing facility in Jefferson County; providing for a five-year sunset provision relative to the applicability of this definition at any pari-mutuel racing facility in Hancock County; changing formula for distribution of the greyhound breeder development fund moneys to equalize purses by establishment of a points system as approved by the West Virginia Racing Commission; authorizing use of reserve balance funds for a training facility; authorizing the racing commission to annually establish appropriate numbers of West Virginia whelped greyhounds at racetrack kennels; sanctions for not kenneling the minimum number of West Virginia whelped greyhounds; adding accreditation to the qualification of a West Virginia thoroughbred sire; adding a minimum of fourteen stakes horse races at Charles Town for restricted

races; races adding two restricted per racing day where sufficient horses and purse funds are available; funding for additional races at Charles Town; and continuing limitation on certain purse funds at Mountaineer Park.

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

That §19-23-3, §19-23-10 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.**

### **§19-23-3. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 (16) "Racing commission" means the West Virginia  
48 Racing Commission;

49 (17) "Stewards" means the steward or stewards  
50 representing the racing commission, the steward or stewards

51 representing a licensee and any other steward or stewards,  
52 whose duty it is to supervise any horse or dog race meeting,  
53 all as may be provided by reasonable rules of the racing  
54 commission, and the reasonable rules shall specify the  
55 number of stewards to be appointed, the method and manner  
56 of their appointment and their powers, authority and duties;

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

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

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

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

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

85 sales company, or (B) for obtaining veterinary services,  
86 documented by veterinary reports;

87 (25) "Accredited West Virginia sire" is a sire that is  
88 permanently domiciled in West Virginia, stands a full season  
89 in West Virginia and is registered with West Virginia  
90 Thoroughbred Breeders Association;

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

93 (27) "Raiser of an accredited West Virginia horse" is the  
94 owner of the yearling at the time it finished twelve  
95 consecutive months of verifiable residence in the state.  
96 During the period, the raiser will be granted one month of  
97 grace for his or her horse to be shipped to and from  
98 thoroughbred sales where the horse is officially entered in the  
99 sales catalogue of a recognized thoroughbred sales company.  
100 In the event the yearling was born in another state and  
101 transported to this state, this definition does not apply after  
102 the thirty-first day of December, two thousand seven, to any  
103 pari-mutuel racing facility located in Jefferson County; nor  
104 shall it apply after the thirty-first day of December, two  
105 thousand twelve, and thereafter to any pari-mutuel racing  
106 facility located in Hancock County. Prior to the horse being  
107 shipped out of the state for sales, the raiser must notify the  
108 racing commission of his or her intentions;

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

111 (29) The "owner of an accredited West Virginia horse"  
112 means the owner at the time the horse earned designated  
113 purses to qualify for restricted purse supplements provided in  
114 section thirteen-b of this article;

115 (30) "Registered greyhound owner" means an owner of  
116 a greyhound that is registered with the National Greyhound  
117 Association;

118 (31) "Fund" means the West Virginia Thoroughbred

119 Development Fund established in section thirteen-b of this  
120 article; and,

121 (32) "Regular purse" means both regular purses and  
122 stakes purses.

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

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

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

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

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

104 (c) Any racing association licensed by the racing  
105 commission to conduct harness racing and permitting and  
106 conducting pari-mutuel wagering under the provisions of this  
107 article shall, in addition to the daily license tax required under  
108 subsection (a) of this section, pay to the racing commission,  
109 from the commission deducted each day by the licensee from  
110 the pari-mutuel pools on harness racing, as a tax, three  
111 percent of the first one hundred thousand dollars wagered, or  
112 any part thereof; four percent of the next one hundred fifty

113 thousand dollars; and five and three-fourths percent of all  
114 over that amount wagered each day in all pari-mutuel pools  
115 conducted or made at any and every harness race meeting of  
116 the licensee licensed under the provisions of this article.

117 (d) Any racing association licensed by the racing  
118 commission to conduct dog racing and permitting and  
119 conducting pari-mutuel wagering under the provisions of this  
120 article shall, in addition to the daily license tax required under  
121 subsection (a) of this section, pay to the racing commission,  
122 from the commission deducted each day by the licensee from  
123 the pari-mutuel pools on dog racing, as a tax, four percent of  
124 the first fifty thousand dollars or any part thereof of the pari-  
125 mutuel pools, five percent of the next fifty thousand dollars  
126 of the pari-mutuel pools, six percent of the next one hundred  
127 thousand dollars of the pari-mutuel pools, seven percent of  
128 the next one hundred fifty thousand dollars of the pari-mutuel  
129 pools, and eight percent of all over three hundred fifty  
130 thousand dollars wagered each day: *Provided*, That the  
131 licensee shall deduct daily from the pari-mutuel tax an  
132 amount equal to one tenth of one percent of the daily pari-  
133 mutuel pools in dog racing in fiscal year one thousand nine  
134 hundred ninety; fifteen hundredths of one percent in fiscal  
135 year one thousand nine hundred ninety-one; two tenths of one  
136 percent in fiscal year one thousand nine hundred ninety-two;  
137 one quarter of one percent in fiscal year one thousand nine  
138 hundred ninety-three; and three tenths of one percent in fiscal  
139 year one thousand nine hundred ninety-four and every fiscal  
140 year thereafter. The amounts deducted shall be paid to the  
141 racing commission to be deposited by the racing commission  
142 in a banking institution of its choice in a special account to be  
143 known as "West Virginia Racing Commission-Special  
144 Account-West Virginia Greyhound Breeding Development  
145 Fund". The purpose of the fund is to promote better  
146 breeding, a training facility and racing of greyhounds in the  
147 state through awards and purses to bona fide resident  
148 registered greyhound owners of accredited West Virginia  
149 whelped greyhounds. In order to be eligible to receive an  
150 award or purse through the fund, the registered greyhound  
151 owner of the accredited West Virginia whelped greyhound  
152 must be a bona fide resident of this state. To qualify as a

153 bona fide resident of West Virginia, a registered greyhound  
154 owner may not claim residency in any other state. A  
155 registered greyhound owner must prove bona fide residency  
156 by providing to the commission personal income tax returns  
157 filed in the state of West Virginia for the most recent tax year  
158 and the three previous tax years, has real or personal property  
159 in this state on which the owner has paid real or personal  
160 property taxes during the most recent tax year and the  
161 previous three tax years and an affidavit stating that the  
162 owner claims no other state of residency. The racing  
163 commission and the West Virginia registered greyhound  
164 owners and breeders association shall maintain a registry for  
165 West Virginia bred greyhounds. The moneys shall be  
166 expended by the racing commission for purses for stake  
167 races, supplemental purse awards, administration, promotion  
168 and educational programs involving West Virginia whelped  
169 dogs, owned by residents of this state under rules  
170 promulgated by the racing commission. The racing  
171 commission shall pay out of the greyhound breeding  
172 development fund to each of the licensed dog racing tracks  
173 the sum of seventy-five thousand dollars for the fiscal year  
174 ending the thirtieth day of June, one thousand nine hundred  
175 ninety-four. The licensee shall deposit the sum into the  
176 special fund for regular purses established under the  
177 provisions of section nine of this article. The funds shall be  
178 expended solely for the purpose of supplementing regular  
179 purses under rules promulgated by the racing commission.

180 Supplemental purse awards will be distributed as follows:  
181 Supplemental purses shall be paid directly to the registered  
182 greyhound owner of an accredited greyhound.

183 The registered greyhound owner of accredited West  
184 Virginia whelped greyhounds that earn points at any West  
185 Virginia meet will receive a bonus award calculated at the  
186 end of each month as a percentage of the fund dedicated to  
187 the owners as purse supplements, which shall be a minimum  
188 of fifty percent of the total moneys deposited into the West  
189 Virginia greyhound breeding development fund monthly.

190 The total amount of the fund available for the owners'

191 awards shall be distributed according to the ratio of points  
192 earned by an accredited greyhound to the total amount earned  
193 in races by all accredited West Virginia whelped greyhounds  
194 for that month as a percentage of the funds dedicated to the  
195 owners' purse supplements. The point value at all greyhound  
196 tracks shall be the same as approved by the racing  
197 commission to be effective April 1, 2007.

198 The registered greyhound owner of an accredited West  
199 Virginia whelped greyhound shall file a purse distribution  
200 form with the racing commission for a percentage of his or  
201 her dog's earnings to be paid directly to the registered  
202 greyhound owner or owners of the greyhound. Distribution  
203 shall be made on the fifteenth day of each month for the  
204 preceding month's achievements.

205 In no event shall points earned at a meet held at a track  
206 which did not make contributions to the West Virginia  
207 greyhound breeder's development fund out of the daily pool  
208 on the day the meet was held qualify or count toward  
209 eligibility for supplemental purse awards.

210 Any balance in the purse supplement funds after all  
211 distributions have been made for the year revert to the  
212 general account of the fund for distribution in the following  
213 year; *Provided*, That not more than one million dollars from  
214 the balance in the purse supplemental fund shall be used for  
215 the construction and maintenance of a dog training track and  
216 facilities if such be approved by the West Virginia Racing  
217 Commission. The West Virginia Racing Commission shall  
218 be authorized to promulgate rules governing dog training  
219 tracks.

220 In an effort to further promote the breeding of quality  
221 West Virginia whelped greyhounds, a bonus purse  
222 supplement shall be established in the amount of fifty  
223 thousand dollars per annum, to be paid in equal quarterly  
224 installments of twelve thousand five hundred dollars per  
225 quarter using the same method to calculate and distribute  
226 these funds as the regular supplemental purse awards. This  
227 bonus purse supplement is for three years only, commencing

228 on the first day of July, one thousand nine hundred  
229 ninety-three, and ending the thirtieth day of June, one  
230 thousand nine hundred ninety-six. This money would come  
231 from the current existing balance in the greyhound  
232 development fund.

233 Each pari-mutuel greyhound track shall provide stakes  
234 races for accredited West Virginia whelped greyhounds:  
235 *Provided*, That each pari-mutuel track shall have one juvenile  
236 and one open stake race annually. To assure breeders of  
237 accredited West Virginia whelped greyhounds an opportunity  
238 to participate in the West Virginia Greyhound Breeding  
239 Development Fund the West Virginia Racing Commission by  
240 the first day of July 1 each year shall establish and announce  
241 the minimum number of accredited West Virginia whelped  
242 greyhounds that greyhound racing kennels at West Virginia  
243 dog tracks must have on their racing active list during the  
244 calendar year following such action. The minimum number  
245 may vary from dog track to dog track. The minimum number  
246 shall be established after consultation with the West Virginia  
247 Greyhound Owners and Breeders Association and kennel  
248 owners and operators. Factors to be considered in  
249 establishing this minimum number shall be the number of  
250 individually registered accredited West Virginia whelped  
251 greyhounds whelped in the previous two years. The number  
252 of all greyhounds seeking qualification at each West Virginia  
253 dog track, the ratio of active running greyhounds to housed  
254 number of greyhounds at each West Virginia dog track, and  
255 the size and number of racing kennels at each West Virginia  
256 dog track. Any greyhound racing kennel not having the  
257 minimum number of accredited West Virginia whelped  
258 greyhounds determined by the West Virginia Racing  
259 Commission on their active list shall only be permitted to  
260 race the maximum allowable number on the active list less  
261 the number of accredited West Virginia whelped greyhounds  
262 below the established minimum number. Consistent  
263 violations of this minimum requirement may for review by  
264 the Racing Commission and may constitute cause for denial  
265 or revocation of a kennel's racing license. The racing  
266 commission shall oversee and approve racing schedules and  
267 purse amounts. -

268 Ten percent of the deposits into the greyhound breeding  
269 development fund beginning the first day of July, one  
270 thousand nine hundred ninety-three and continuing each year  
271 thereafter, shall be withheld by the racing commission and  
272 placed in a special revenue account hereby created in the  
273 state treasury called the "administration, promotion and  
274 educational and capital improvement account". The racing  
275 commission is authorized to expend the moneys deposited in  
276 the administration, promotion and educational and capital  
277 improvement account at such times and in such amounts as  
278 the commission determines to be necessary for purposes of  
279 administering and promoting the greyhound development  
280 program: *Provided*, That beginning with fiscal year one  
281 thousand nine hundred ninety-five and in each fiscal year  
282 thereafter in which the commission anticipates spending any  
283 money from the account, the commission shall submit to the  
284 executive department during the budget preparation period  
285 prior to the Legislature convening before that fiscal year for  
286 inclusion in the executive budget document and budget bill,  
287 the recommended expenditures, as well as requests of  
288 appropriations for the purpose of administration, promotion  
289 and education. The commission shall make an annual report  
290 to the Legislature on the status of the administration,  
291 promotion and education account, including the previous  
292 year's expenditures and projected expenditures for the next  
293 year.

294 The racing commission, for the fiscal year one thousand  
295 nine hundred ninety-four only, may expend up to thirty-five  
296 thousand dollars from the West Virginia greyhound breeding  
297 development fund to accomplish the purposes of this section  
298 without strictly following the requirements in the previous  
299 paragraph.

300 (e) All daily license and pari-mutuel pools tax payments  
301 required under the provisions of this section shall be made to  
302 the racing commission or its agent after the last race of each  
303 day of each horse or dog race meeting, and the pari-mutuel  
304 pools tax payments shall be made from all contributions to all  
305 pari-mutuel pools to each and every race of the day.

306 (f) Every association or licensee subject to the provisions  
307 of this article, including the changed provisions of sections  
308 nine and ten of this article, shall annually submit to the racing  
309 commission and the Legislature financial statements,  
310 including a balance sheet, income statement, statement of  
311 change in financial position and an audit of any electronic  
312 data system used for pari-mutuel tickets and betting, prepared  
313 in accordance with generally accepted auditing standards, as  
314 certified by an experienced public accountant or a certified  
315 public accountant.

**§19-23-13b. West Virginia Thoroughbred Development Fund;  
distribution; restricted races; nonrestricted  
purse supplements; preference for West  
Virginia accredited thoroughbreds.**

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

26 “West Virginia Racing Commission Special Account – West  
27 Virginia Thoroughbred Development Fund” and shall name  
28 the licensee for which the special account has been  
29 established: *Provided, however,* That the Racing  
30 Commission shall deposit all moneys paid into the  
31 Thoroughbred Development Fund by a thoroughbred  
32 racetrack licensee that did not participate in the  
33 Thoroughbred Development Fund for at least four  
34 consecutive calendar years prior to the thirty-first day of  
35 December, one thousand nine hundred ninety-two from the  
36 eighth day of July, two thousand five until the effective date  
37 of the amendment to this section passed during the fourth  
38 extraordinary session of the seventy-seventh Legislature shall  
39 be paid into the purse fund of that thoroughbred racetrack  
40 licensee: *Provided further,* That the moneys paid into the  
41 Thoroughbred Development Fund by a thoroughbred  
42 racetrack licensee that did not participate in the  
43 Thoroughbred Development Fund for at least four  
44 consecutive calendar years prior to the thirty-first day of  
45 December, one thousand nine hundred ninety-two, shall be  
46 transferred into that licensee’s purse fund until the first day  
47 of April, two thousand six. Notice of the amount, date and  
48 place of the deposits shall be given by the Racing  
49 Commission, in writing, to the State Treasurer. The purpose  
50 of the funds is to promote better breeding and racing of  
51 thoroughbred horses in the state through awards and purses  
52 for accredited breeders/raisers, sire owners and thoroughbred  
53 race horse owners: *And provided further,* That five percent  
54 of the deposits required to be withheld by an association or  
55 licensee in subsection (b), section nine of this article shall be  
56 placed in a special revenue account hereby created in the  
57 State Treasury called the "Administration and Promotion  
58 Account".

59 (b) The Racing Commission is authorized to expend the  
60 moneys deposited in the administration and promotion  
61 account at times and in amounts as the Commission  
62 determines to be necessary for purposes of administering and  
63 promoting the thoroughbred development program:  
64 *Provided,* That during any fiscal year in which the  
65 Commission anticipates spending any money from the

66 account, the Commission shall submit to the executive  
67 department during the budget preparation period prior to the  
68 Legislature convening before that fiscal year for inclusion in  
69 the executive budget document and budget bill the  
70 recommended expenditures, as well as requests of  
71 appropriations for the purpose of administration and  
72 promotion of the program. The Commission shall make an  
73 annual report to the Legislature on the status of the  
74 administration and promotion account, including the previous  
75 year's expenditures and projected expenditures for the next  
76 year.

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

80 (d) Funds in the Thoroughbred Development Fund or  
81 funds in the separate accounts for each association or licensee  
82 as provided in subsection (a) of this section shall be expended  
83 for awards and purses except as otherwise provided in this  
84 section. Annually, the first eight hundred thousand dollars  
85 shall be available for distribution for a minimum of fourteen  
86 accredited stakes races at a racetrack which has participated  
87 in the West Virginia Thoroughbred Development Fund for a  
88 period of more than four consecutive calendar years prior to  
89 the thirty-first day of December, one thousand nine hundred  
90 ninety-two. The weights for all accredited stakes races shall  
91 be weight for age. One of the stakes races shall be the West  
92 Virginia Futurity and the second shall be the Frank Gall  
93 Memorial Stakes. For the purpose of participating in the  
94 West Virginia Futurity only, all mares, starting with the  
95 breeding season beginning the first day of February through  
96 the thirty-first day of July, two thousand four, and each  
97 successive breeding season thereafter shall be bred back that  
98 year to an accredited West Virginia stallion only which is  
99 registered with the West Virginia Thoroughbred Breeders  
100 Association. The accredited stake races shall be chosen by  
101 the committee set forth in subsection (f) of this section.

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

103           (1) The breeders/raisers of accredited thoroughbred  
104 horses that earn a purse at a participating West Virginia meet  
105 shall receive a bonus award calculated at the end of the year  
106 as a percentage of the fund dedicated to the breeders/raisers,  
107 which shall be sixty percent of the fund available for  
108 distribution in any one year. The total amount available for  
109 the breeders'/raisers' awards shall be distributed according to  
110 the ratio of purses earned by an accredited race horse to the  
111 total amount earned in the participating races by all  
112 accredited race horses for that year as a percentage of the  
113 fund dedicated to the breeders/raisers. However, no  
114 breeder/raiser may receive from the fund dedicated to  
115 breeders'/raisers' awards an amount in excess of the earnings  
116 of the accredited horse at West Virginia meets. In addition,  
117 should a horse's breeder and raiser qualify for the same  
118 award on the same horse, they will each be awarded one half  
119 of the proceeds. The bonus referred to in this subdivision  
120 may only be paid on the first one hundred thousand dollars of  
121 any purse and not on any amounts in excess of the first one  
122 hundred thousand dollars.

123           (2) The owner of an accredited West Virginia sire of an  
124 accredited thoroughbred horse that earns a purse in any race  
125 at a participating West Virginia meet shall receive a bonus  
126 award calculated at the end of the year as a percentage of the  
127 fund dedicated to sire owners, which shall be fifteen percent  
128 of the fund available for distribution in any one year. The  
129 total amount available for the sire owners' awards shall be  
130 distributed according to the ratio of purses earned by the  
131 progeny of accredited West Virginia stallions in the  
132 participating races for a particular stallion to the total purses  
133 earned by the progeny of all accredited West Virginia  
134 stallions in the participating races. However, no sire owner  
135 may receive from the fund dedicated to sire owners an  
136 amount in excess of thirty-five percent of the accredited  
137 earnings for each sire. The bonus referred to in this  
138 subdivision shall only be paid on the first one hundred  
139 thousand dollars of any purse and not on any amounts in  
140 excess of the first one hundred thousand dollars.

141           (3) The owner of an accredited thoroughbred horse that

142 earns a purse in any participating race at a West Virginia  
143 meet shall receive a restricted purse supplement award  
144 calculated at the end of the year, which shall be twenty-five  
145 percent of the fund available for distribution in any one year,  
146 based on the ratio of the earnings in the races of a particular  
147 race horse to the total amount earned by all accredited race  
148 horses in the participating races during that year as a  
149 percentage of the fund dedicated to purse supplements.  
150 However, the owners may not receive from the fund  
151 dedicated to purse supplements an amount in excess of  
152 thirty-five percent of the total accredited earnings for each  
153 accredited race horse. The bonus referred to in this  
154 subdivision shall only be paid on the first one hundred  
155 thousand dollars of any purse and not on any amounts in  
156 excess of the first one hundred thousand dollars.

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

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

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

170 (f) (1) Each pari-mutuel thoroughbred horse track shall  
171 provide at least one restricted race per racing day: *Provided*,  
172 That sufficient horses and funds are available. For purposes  
173 of this subsection, there are sufficient horses if there are at  
174 least seven single betting interests received for the race.  
175 *Provided further*, That, if sufficient horses and funds are  
176 available, any thoroughbred horse racetrack whose licensee  
177 participated in the Thoroughbred Development Fund for at  
178 least four consecutive calendar years prior to the thirty-first

179 day of December one thousand nine hundred ninety-two,  
180 shall provide two restricted races per racing day, at least one  
181 of which may be split at the discretion of the racing secretary.  
182 The restricted race required by this section must be included  
183 in the first nine races written in the condition book for that  
184 racing day.

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

188 (A) The racing secretary;

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

192 (C) A member appointed by the West Virginia  
193 Thoroughbred Breeders Association.

194 (3) Restricted races shall be funded by each racing  
195 association from:

196 (A) Moneys placed in the general purse fund: *Provided,*  
197 That a thoroughbred horseracetrack which did not participate  
198 in the West Virginia Thoroughbred Development fund for a  
199 period of more than four consecutive years prior to the thirty-  
200 first day of December, one thousand nine hundred ninety-  
201 two, may fund restricted races in an amount not to exceed  
202 one million dollars per year.

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

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

209 (5) If less than seventy-five percent of the restricted races  
210 required by this subsection fail to receive enough entries to

211 race, the Racing Commission shall, on a quarterly basis,  
212 dedicate funds in each fund back to the general purse fund of  
213 the racing association or licensee: *Provided*, That no moneys  
214 may be dedicated back to a general purse fund if the  
215 dedication would leave less than two hundred fifty thousand  
216 dollars in the fund.

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

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

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

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

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

233 (i) From the first day of July, two thousand one, West  
234 Virginia accredited thoroughbred horses have preference for  
235 entry in all accredited races at a thoroughbred race track at  
236 which the licensee participates in the West Virginia  
237 Thoroughbred Development Fund.

238 (j) Beginning the first day of July, two thousand six, any  
239 racing association licensed by the Racing Commission to  
240 conduct thoroughbred racing and permitting and conducting  
241 pari-mutuel wagering under the provisions of this article must  
242 have a West Virginia Thoroughbred Racing Breeders  
243 Program.

244 (k) The Commission shall, during calendar year two  
245 thousand nine, conduct a study of the adequacy of funding  
246 provided for the Thoroughbred Development Fund at any  
247 thoroughbred racetrack which has not participated in the  
248 West Virginia Thoroughbred Development Fund for a period  
249 of more than four consecutive calendar years prior to the  
250 thirty-first day of December, one thousand nine hundred  
251 ninety-two, and shall report its findings and  
252 recommendations to the Joint Committee on Government and  
253 Finance on or before the first day of December, two thousand  
254 nine.

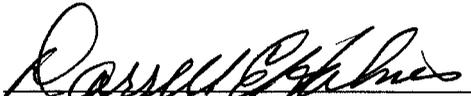
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

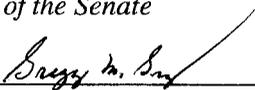
  
\_\_\_\_\_  
Chairman Senate Committee

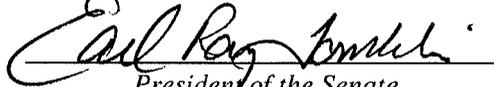
  
\_\_\_\_\_  
Chairman House Committee

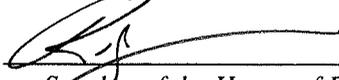
Originating in the House.

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 appended this the 4<sup>th</sup>  
day of April, 2007.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 22 2007

Time 3:45 pm