

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

**Senate Bill No. 413**

(BY SENATORS SNYDER, KLEMPA, YOST, McCABE, UNGER AND D. FACEMIRE)

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[Passed March 8, 2011; to take effect July 1, 2011.]

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AN ACT to amend and reenact §19-23-5 and §19-23-6 of the Code of West Virginia, 1931, as amended, all relating to changing the title of the West Virginia Racing Commission's racing secretary to executive director.

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

That §19-23-5 and §19-23-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 19. HORSE AND DOG RACING.**

**§19-23-5. Executive director and other personnel; qualifications; terms; powers and duties; compensation and expenses.**

- 1     (a) The Racing Commission shall appoint an executive
- 2     director to represent the Racing Commission who shall have
- 3     the powers and authority and perform such duties as the
- 4     Racing Commission directs. The executive director shall
- 5     preserve at the Racing Commission's principal office all
- 6     books, maps, records, documents and other papers of the
- 7     Racing Commission. The executive director shall, in addition
- 8     to all other duties imposed upon him or her by the Racing
- 9     Commission, serve in a liaison capacity between licensees

10 and the Racing Commission. The Racing Commission may  
11 also employ, direct and define the duties of an assistant  
12 executive director and such stenographers, clerks and other  
13 office personnel as it deems necessary to carry out the duties  
14 imposed upon it under the provisions of this article.

15 (b) In addition to the employees referred to above, the  
16 Racing Commission shall employ, direct and define the  
17 duties of a chief clerk, director of security, director of audit,  
18 chief chemist, stewards to represent the Racing Commission,  
19 supervisors of the pari-mutuel wagering conducted under the  
20 provisions of this article, veterinarians, inspectors, accountants,  
21 guards and all other employees deemed by the Racing  
22 Commission to be essential in connection with any horse or  
23 dog race meeting. The director of audit shall be a certified  
24 public accountant or experienced public accountant.

25 (c) No individual shall knowingly be employed or be  
26 continued in employment by the Racing Commission in any  
27 capacity whatever:

28 (1) Who directly or indirectly, or in any capacity, owns or  
29 has any interest, in any manner, in any racetrack where  
30 horse or dog race meetings may be held, including, but not  
31 limited to, an interest as owner, lessor, lessee, stockholder or  
32 employee;

33 (2) Who at the time is or has been within one year prior, a  
34 member of the Legislature or an elective officer of this state  
35 unless he or she is experienced and qualified as a racing  
36 official; or

37 (3) Who has been or shall be convicted of an offense which,  
38 under the law of this state or any other state or of the United  
39 States of America, constitutes a felony or is a violation of  
40 article four, chapter sixty-one of this code. Any steward  
41 employed by the Racing Commission or by a licensee shall be  
42 a person of integrity and experienced and qualified for such  
43 position by the generally accepted practices and customs of  
44 horse or dog racing in the United States.

45 (d) The executive director and all other employees of the  
46 Racing Commission shall serve at the will and pleasure of the  
47 Racing Commission. The executive director and the other  
48 employees referred to in this section as employees of the  
49 Racing Commission shall receive such compensation as may  
50 be fixed by the Racing Commission within the limit of  
51 available funds and shall be reimbursed for all reasonable  
52 and necessary expenses actually incurred in the performance  
53 of their official duties.

54 (e) All compensation and reimbursement for expenses of  
55 the members of the Racing Commission, the executive  
56 director and all other employees of the Racing Commission  
57 shall be paid from the funds in the hands of the State  
58 Treasurer collected under the provisions of this article and  
59 shall be itemized in the budget in the same manner as all  
60 other departments of state government. No reimbursement  
61 for expenses incurred shall be paid unless an itemized  
62 account, under oath, is first filed with the State Auditor.

**§19-23-6. Powers and authority of Racing Commission.**

1 The Racing Commission has full jurisdiction over and shall  
2 supervise all horse race meetings, all dog race meetings and  
3 all persons involved in the holding or conducting of horse or  
4 dog race meetings and, in this regard, it has plenary power  
5 and authority:

6 (1) To investigate applicants and determine the eligibility  
7 of the applicants for a license or permit or construction  
8 permit under the provisions of this article;

9 (2) To fix, from time to time, the annual fee to be paid to  
10 the Racing Commission for any permit required under the  
11 provisions of section two of this article;

12 (3) To promulgate reasonable rules implementing and  
13 making effective the provisions of this article and the powers  
14 and authority conferred and the duties imposed upon the  
15 Racing Commission under the provisions of this article,  
16 including, but not limited to, reasonable rules under which

17 all horse races, dog races, horse race meetings and dog race  
18 meetings shall be held and conducted, all of which reason-  
19 able rules shall be promulgated in accordance with the  
20 provisions of article three, chapter twenty-nine-a of this  
21 code except that the Racing Commission shall promulgate  
22 separate rules, in accordance with article three, chapter  
23 twenty-nine-a, pertaining to the kinds of legal combination  
24 wagers which may be placed in connection with the pari-  
25 mutuel system of wagering authorized by this article;

26 (4) To register colors and assumed names and to fix, from  
27 time to time, the annual fee to be paid to the Racing Commis-  
28 sion for any such registration;

29 (5) To fix and regulate the minimum purse to be offered  
30 during any horse or dog race meeting;

31 (6) To fix a minimum and a maximum number of horse  
32 races or dog races to be held on any respective racing day;

33 (7) To enter the office, horse racetrack, dog racetrack,  
34 kennel, facilities and other places of business of any licensee  
35 to determine whether the provisions of this article and its  
36 reasonable rules are being complied with, and for this  
37 purpose, the Racing Commission, its executive director,  
38 representatives and employees may visit, investigate and  
39 have free access to any such office, horse racetrack, dog  
40 racetrack, kennel, facilities and other places of business;

41 (8) To investigate alleged violations of the provisions of  
42 this article, its reasonable rules, orders and final decisions  
43 and to take appropriate disciplinary action against any  
44 licensee or permit holder or construction permit holder for a  
45 violation or institute appropriate legal action for enforce-  
46 ment or take disciplinary action and institute legal action;

47 (9) By reasonable rules, to authorize stewards, starters and  
48 other racing officials to impose reasonable fines or other  
49 sanctions upon a person connected with or involved in any  
50 horse or dog racing or any horse or dog race meeting and to  
51 authorize stewards to rule off the grounds of any horse or

52 dog racetrack any tout, bookmaker or other undesirable  
53 individual determined inimical to the best interests of horse  
54 and dog racing or the pari-mutuel system of wagering in  
55 connection therewith;

56 (10) To require at any time the removal of any racing  
57 official or racing employee of any licensee for the violation  
58 of any provision of this article, any reasonable rule of the  
59 Racing Commission or for any fraudulent practice;

60 (11) To acquire, establish, maintain and operate, or to  
61 provide by contract for the maintenance and operation of, a  
62 testing laboratory and related facilities for the purpose of  
63 conducting saliva, urine and other tests on the horse or dog  
64 or horses or dogs run or to be run in any horse or dog race  
65 meeting and to purchase all equipment and supplies consid-  
66 ered necessary or desirable in connection with the acquisi-  
67 tion, establishment, maintenance and operation of any  
68 testing laboratory and related facilities and all such tests;

69 (12) To hold up, in any disputed horse or dog race, the  
70 payment of any purse pending a final determination of the  
71 results thereof;

72 (13) To require each licensee to file an annual balance  
73 sheet and profit and loss statement pertaining to the li-  
74 censee's horse or dog racing activities in this state together  
75 with a list of each licensee's stockholders or other persons  
76 having any beneficial interest in the horse or dog racing  
77 activities of the licensee;

78 (14) To issue subpoenas for the attendance of witnesses and  
79 subpoenas duces tecum for the production of any books,  
80 records and other pertinent documents and to administer  
81 oaths and affirmations to such witnesses, whenever, in the  
82 judgment of the Racing Commission, it is necessary to do so  
83 for the effective discharge of its duties under the provisions  
84 of this article;

85 (15) To keep accurate and complete records of its proceed-  
86 ings and to certify the same as may be appropriate;

87       (16) To take any other action that may be reasonable or  
88 appropriate to effectuate the provisions of this article and its  
89 reasonable rules;

90       (17) To provide breeders' awards, purse supplements and  
91 moneys for capital improvements at racetracks in compli-  
92 ance with section thirteen-b of this article; and

93       (18) To mediate on site, upon request of a party, all dis-  
94 putes existing between the racetrack licensees located in this  
95 state and representatives of a majority of the horse owners  
96 and trainers licensed at the track which threaten to disrupt  
97 any scheduled racing event or events. The Racing Commis-  
98 sion shall, upon the request of a party, mediate on site all  
99 disputes existing between racetrack licensees and represen-  
100 tatives of pari-mutuel clerks which threaten to disrupt any  
101 scheduled racing event or events. When a request for media-  
102 tion is made, the commission shall designate from among its  
103 members one person to act as mediator in each dispute that  
104 arises. Each opposing party involved in any dispute shall  
105 negotiate in good faith with the goal of reaching a fair and  
106 mutual resolution. The mediator may issue recommendations  
107 designed to assist each side toward reaching a fair compro-  
108 mise. No owner or operator or any horse owner or trainer or  
109 any pari-mutuel clerk licensed at the track is required to  
110 abide by any recommendation made by any mediator acting  
111 pursuant to this subsection.

112      The Racing Commission shall not interfere in the internal  
113 business or internal affairs of any licensee.

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

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*Chairman Senate Committee*

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*Chairman House Committee*

Originated in the Senate.

To take effect July 1, 2011.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*Acting President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the .....

Day of ..... , 2011.

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*Governor*