

1 **H. B. 4443**

2  
3 (By Delegates Ferns, Ferro, Givens, Hartman,  
4 Jones, R. Phillips, Morgan, Storch,  
5 Swartzmiller and Varner)

6 [Introduced February 7, 2012; referred to the  
7 Committee on Government Organization then the Judiciary.]

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9  
10 A BILL to amend and reenact §19-23-1, §19-23-3 and §19-23-6 of the  
11 Code of West Virginia, 1931, as amended, all relating to  
12 permitting the racing commission to regulate charity racing  
13 events and rule-making authority.

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

15 That §19-23-1, §19-23-3 and §19-23-6 of the Code of West  
16 Virginia, 1931, as amended, be amended and reenacted, all to read  
17 as follows:

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

19 **§19-23-1. License required for horse and dog racing and**  
20 **pari-mutuel wagering in connection therewith;**  
21 **exception.**

22 (a) No association ~~shall~~ may hold or conduct ~~any~~ a horse or  
23 dog race meeting ~~at which~~ where horse or dog racing is permitted  
24 for ~~any~~ a purse unless ~~such~~ the association possesses a license

1 ~~therefor~~ from the West Virginia Racing Commission and complies with  
2 the provisions of this article and all reasonable rules ~~and~~  
3 ~~regulations~~ of ~~such~~ the Racing Commission.

4 (b) Notwithstanding the provisions of subsection (a) of this  
5 section, the provisions of this article ~~shall not be construed to~~  
6 do not prevent ~~in any way~~ the use without a license of any grounds,  
7 enclosure or racetrack owned and controlled by ~~any~~ an association  
8 for ~~any~~ a local, county or state fair, horse show or agriculture or  
9 livestock exposition, even though horse or dog racing be there  
10 conducted, if the pari-mutuel system of wagering upon the results  
11 of such horse or dog racing is ~~neither permitted nor~~ not permitted  
12 or conducted with the knowledge or acquiescence of the association  
13 conducting ~~such~~ the horse or dog racing.

14 (c) Notwithstanding the provisions of subsection (a) of this  
15 section, the racing commission shall authorize and regulate a  
16 charity racing event.

17 **§19-23-3. Definitions.**

18 Unless the context clearly requires a different meaning, as  
19 used in this article:

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

22 (2) "Thoroughbred racing" means flat or running type horse  
23 racing in which each horse participating is a thoroughbred and  
24 mounted by a jockey;

1           (3) "Harness racing" means horse racing in which the horses  
2 participating are harnessed to a sulky, carriage or other vehicle  
3 and does not include any form of horse racing in which the horses  
4 are mounted by jockeys;

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

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

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

12          (7) "Racing association" or "person" means any individual,  
13 partnership, firm, association, corporation or other entity or  
14 organization of whatever character or description;

15          (8) "Applicant" means any racing association making  
16 application for a license under the provisions of this article or  
17 any person making application for a permit under the provisions of  
18 this article or any person making application for a construction  
19 permit under the provisions of this article;

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

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

24          (11) "Construction permit" means the construction permit

1 required by the provisions of section eighteen of this article;

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

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

8       (14) "Construction permit holder" means any person holding a  
9 construction permit required by the provisions of section eighteen  
10 of this article and issued under the provisions of this article;

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

13       (16) "Racing commission" means the West Virginia Racing  
14 Commission;

15       (17) "Stewards" means the steward or stewards representing the  
16 Racing Commission, the steward or stewards representing a licensee  
17 and any other steward or stewards whose duty it is to supervise any  
18 horse or dog race meeting, all as may be provided by reasonable  
19 rules of the Racing Commission which rules shall specify the number  
20 of stewards to be appointed, the method and manner of their  
21 appointment and their powers, authority and duties;

22       (18) "Pari-mutuel" means a mutuel or collective pool that can  
23 be divided among those who have contributed their wagers to one  
24 central agency, the odds to be reckoned in accordance to the

1 collective amounts wagered upon each contestant running in a horse  
2 or dog race upon which the pool is made, but the total to be  
3 divided among the first three contestants on the basis of the  
4 number of wagers on these;

5 (19) "Pari-mutuel clerk" means any employee of a licensed  
6 racing association who is responsible for the collection of wagers,  
7 the distribution of moneys for winning pari-mutuel tickets,  
8 verification of the validity of pari-mutuel tickets and accounting  
9 for pari-mutuel funds;

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

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

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

16 (23) "Code" means the Code of West Virginia, 1931, as  
17 heretofore and hereinafter amended;

18 (24) "Accredited thoroughbred horse" means a thoroughbred  
19 horse that is registered with the West Virginia Thoroughbred  
20 Breeders Association and that is:

21 (A) Foaled in West Virginia; or

22 (B) Sired by an accredited West Virginia sire; or

23 (C) As a yearling, finished twelve consecutive months of  
24 verifiable residence in the state, except for thirty days' grace:

1 (i) For the horse to be shipped to and from horse sales where  
2 the horse is officially entered in the sales catalogue of a  
3 recognized thoroughbred sales company; or

4 (ii) For obtaining veterinary services, documented by  
5 veterinary reports;

6 (25) "Accredited West Virginia sire" is a sire that is  
7 permanently domiciled in West Virginia, stands a full season in  
8 West Virginia and is registered with West Virginia Thoroughbred  
9 Breeders Association;

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

12 (27) "Raiser of an accredited West Virginia horse" is the  
13 owner of the yearling at the time it finished twelve consecutive  
14 months of verifiable residence in the state. During the period,  
15 the raiser will be granted one month of grace for his or her horse  
16 to be shipped to and from thoroughbred sales where the horse is  
17 officially entered in the sales catalogue of a recognized  
18 thoroughbred sales company. In the event the yearling was born in  
19 another state and transported to this state, this definition does  
20 not apply after ~~the~~ December 31, 2007, to any pari-mutuel racing  
21 facility located in Jefferson County nor shall it apply after ~~the~~  
22 December 31, 2012, and thereafter to any pari-mutuel racing  
23 facility located in Hancock County. Prior to the horse being  
24 shipped out of the state for sales, the raiser must notify the

1 Racing Commission of his or her intentions;

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

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

8 (30) "Registered greyhound owner" means an owner of a  
9 greyhound that is registered with the National Greyhound  
10 Association;

11 (31) "Fund" means the West Virginia Thoroughbred Development  
12 Fund established in section thirteen-b of this article; ~~and~~

13 (32) "Regular purse" means both regular purses and stakes  
14 purses; and

15 (33) "Charity racing event" means an activity of limited  
16 duration consisting of wagering on prerecorded horse or dog races  
17 for fundraising purposes by charitable organizations.

18 **§19-23-6. Powers and authority of Racing Commission.**

19 The Racing Commission has full jurisdiction over and shall  
20 supervise all horse race meetings, all dog race meetings and all  
21 persons involved in the holding or conducting of horse or dog race  
22 meetings and, in this regard, it has plenary power and authority:

23 (1) To investigate applicants and determine the eligibility of  
24 the applicants for a license or permit or construction permit under

1 the provisions of this article;

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

5       (3) To promulgate reasonable rules implementing and making  
6 effective the provisions of this article and the powers and  
7 authority conferred and the duties imposed upon the Racing  
8 Commission under the provisions of this article, including, but not  
9 limited to, reasonable rules under which all horse races, dog  
10 races, horse race meetings and dog race meetings ~~shall be~~ are held  
11 and conducted, all of which reasonable rules shall be promulgated  
12 in accordance with the provisions of article three, chapter  
13 twenty-nine-a of this code except that the Racing Commission shall  
14 promulgate separate rules, in accordance with article three,  
15 chapter twenty-nine-a, pertaining to the kinds of legal combination  
16 wagers which may be placed in connection with the pari-mutuel  
17 system of wagering authorized by this article;

18       (4) To register colors and assumed names and to fix, from time  
19 to time, the annual fee to be paid to the Racing Commission for ~~any~~  
20 ~~such~~ the registration;

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

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

1           (7) To enter the office, horse racetrack, dog racetrack,  
2 kennel, facilities and other places of business of any licensee to  
3 determine whether the provisions of this article and its reasonable  
4 rules are being complied with, and for this purpose, the Racing  
5 Commission, its executive director, representatives and employees  
6 may visit, investigate and have free access to any such office,  
7 horse racetrack, dog racetrack, kennel, facilities and other places  
8 of business;

9           (8) To investigate alleged violations of the provisions of  
10 this article, its reasonable rules, orders and final decisions and  
11 to take appropriate disciplinary action against any licensee or  
12 permit holder or construction permit holder for a violation or  
13 institute appropriate legal action for enforcement or take  
14 disciplinary action and institute legal action;

15           (9) By reasonable rules, to authorize stewards, starters and  
16 other racing officials to impose reasonable fines or other  
17 sanctions upon a person connected with or involved in any horse or  
18 dog racing or any horse or dog race meeting and to authorize  
19 stewards to rule off the grounds of any horse or dog racetrack any  
20 tout, bookmaker or other undesirable individual determined inimical  
21 to the best interests of horse and dog racing or the pari-mutuel  
22 system of wagering in connection therewith;

23           (10) To require at any time the removal of any racing official  
24 or racing employee of any licensee for the violation of any

1 provision of this article, any reasonable rule of the Racing  
2 Commission or for any fraudulent practice;

3       (11) To acquire, establish, maintain and operate, or to  
4 provide by contract for the maintenance and operation of, a testing  
5 laboratory and related facilities for the purpose of conducting  
6 saliva, urine and other tests on the horse or dog or horses or dogs  
7 run or to be run in any horse or dog race meeting and to purchase  
8 all equipment and supplies considered necessary or desirable in  
9 connection with the acquisition, establishment, maintenance and  
10 operation of any testing laboratory and related facilities and all  
11 such tests;

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

15       (13) To require each licensee to file an annual balance sheet  
16 and profit and loss statement pertaining to the licensee's horse or  
17 dog racing activities in this state together with a list of each  
18 licensee's stockholders or other persons having any beneficial  
19 interest in the horse or dog racing activities of the licensee;

20       (14) To issue subpoenas for the attendance of witnesses and  
21 subpoenas duces tecum for the production of any books, records and  
22 other pertinent documents and to administer oaths and affirmations  
23 to such witnesses, whenever, in the judgment of the Racing  
24 Commission, it is necessary to do so for the effective discharge of

1 its duties under the provisions of this article;

2       (15) To keep accurate and complete records of its proceedings  
3 and to certify the same as may be appropriate;

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

7       (17) To provide breeders' awards, purse supplements and moneys  
8 for capital improvements at racetracks in compliance with section  
9 thirteen-b of this article; ~~and~~

10       (18) To mediate on site, upon request of a party, all disputes  
11 existing between the racetrack licensees located in this state and  
12 representatives of a majority of the horse owners and trainers  
13 licensed at the track which threaten to disrupt any scheduled  
14 racing event or events. The Racing Commission shall, upon the  
15 request of a party, mediate on site all disputes existing between  
16 racetrack licensees and representatives of pari-mutuel clerks which  
17 threaten to disrupt any scheduled racing event or events. When a  
18 request for mediation is made, the commission shall designate from  
19 among its members one person to act as mediator in each dispute  
20 that arises. Each opposing party involved in any dispute shall  
21 negotiate in good faith with the goal of reaching a fair and mutual  
22 resolution. The mediator may issue recommendations designed to  
23 assist each side toward reaching a fair compromise. No owner or  
24 operator or any horse owner or trainer or any pari-mutuel clerk

1 licensed at the track is required to abide by any recommendation  
2 made by any mediator acting pursuant to this subsection; and

3 (19) Shall propose rules for legislative approval in  
4 accordance with the provisions of article three, chapter  
5 twenty-nine-a of this code to authorize and regulate a charity  
6 racing event.

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

NOTE: The purpose of this bill is to permit the racing  
commission to authorize and regulate a charity racing event and  
authorize rule-making authority towards this end.

Strike-throughs indicate language that would be stricken from  
the present law, and underscoring indicates new language that would  
be added.