

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 542

(By Senators Snyder, Kessler (Mr. President), Barnes,
Blair, Edgell, Facemire, Fitzsimmons, Green, D. Hall,
Kirkendoll, Laird, Miller, Unger and Yost)

[Originating in the Committee on the Judiciary;
reported March 26, 2013.]

A BILL to amend and reenact §19-23-13b of the Code of West Virginia, 1931, as amended, relating to restricted races at pari-mutuel thoroughbred horse race tracks; permitting up to two restricted races at certain tracks if there are at least seven single betting interests; permitting a third restricted race at certain tracks if there are at least nine single betting interests; and eliminating a provision concerning if less than seventy-five percent of the restricted races fail to receive enough entries to race.

Be it enacted by the Legislature of West Virginia:

That §19-23-13b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 23. HORSE AND DOG RACING.

**§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 October 1, 2005, deposit the remaining moneys required to
 14 be withheld from an association or licensee designated to the
 15 Thoroughbred Development Fund under the provisions of
 16 subsection (b), section nine of this article, subdivision (3),
 17 subsection (e), section twelve-b of this article, subsection (b),
 18 section twelve-c of this article, paragraph (B), subdivision
 19 (3), subsection (b), section thirteen-c of this article and
 20 sections ten and ten-b, article twenty-two-a, chapter twenty-
 21 nine of this code into accounts for each thoroughbred
 22 racetrack licensee with a banking institution of its choice
 23 with a separate account for each association or licensee.
 24 Each separate account shall be a special account to be known
 25 as West Virginia Racing Commission Special Account –
 26 West Virginia Thoroughbred Development Fund and shall
 27 name the licensee for which the special account has been
 28 established: *Provided, however,* That the Racing
 29 Commission shall deposit all moneys paid into the
 30 Thoroughbred Development Fund by a thoroughbred

31 racetrack licensee that did not participate in the
32 Thoroughbred Development Fund for at least four
33 consecutive calendar years prior to December 31, 1992, from
34 July 8, 2005, until the effective date of the amendment to this
35 section passed during the fourth extraordinary session of the
36 seventy-seventh Legislature shall be paid into the purse fund
37 of that thoroughbred racetrack licensee: *Provided further,*
38 That the moneys paid into the Thoroughbred Development
39 Fund by a thoroughbred racetrack licensee that did not
40 participate in the Thoroughbred Development Fund for at
41 least four consecutive calendar years prior to December 31,
42 1992, shall be transferred into that licensee's purse fund until
43 April 1, 2006. Notice of the amount, date and place of the
44 deposits shall be given by the Racing Commission, in
45 writing, to the State Treasurer. The purpose of the funds is
46 to promote better breeding and racing of thoroughbred horses
47 in the state through awards and purses for accredited
48 breeders/raisers, sire owners and thoroughbred race horse
49 owners: *Provided,* That five percent of the deposits required

50 to be withheld by an association or licensee in subsection (b),
 51 section nine of this article shall be placed in a special revenue
 52 account hereby continued in the State Treasury called the
 53 Administration and Promotion Account: *Provided, however,*
 54 That four and one-half percent of the deposits into the
 55 Thoroughbred Development Fund shall be placed in the
 56 Administration and Promotion Account, except that of this
 57 percentage, no more than \$305,000 shall be placed in the
 58 account in any year.

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
83 expended for awards and purses except as otherwise provided
84 in this section. Annually, the first \$800,000 shall be
85 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 December 31, 1992. The weights for all accredited stakes
90 races shall be weight for age. One of the stakes races shall be
91 the West Virginia Futurity and the second shall be the Frank
92 Gall Memorial Stakes. For the purpose of participating in the
93 West Virginia Futurity only, all mares, starting with the
94 breeding season beginning February 1 through July 31, 2004,
95 and each successive breeding season thereafter, shall be bred
96 back that year to an accredited West Virginia stallion only
97 which is registered with the West Virginia Thoroughbred
98 Breeders Association. The accredited stake races shall be
99 chosen by the committee set forth in subsection (f) of this
100 section.

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

102 (1) The breeders/raisers of accredited thoroughbred
103 horses that earn a purse at a participating West Virginia meet
104 shall receive a bonus award calculated at the end of the year
105 as a percentage of the fund dedicated to the breeders/raisers,
106 which shall be sixty percent of the fund available for

107 distribution in any one year. The total amount available for
108 the breeders'/raisers' awards shall be distributed according to
109 the ratio of purses earned by an accredited race horse to the
110 total amount earned in the participating races by all
111 accredited race horses for that year as a percentage of the
112 fund dedicated to the breeders/raisers. However, no
113 breeder/raiser may receive from the fund dedicated to
114 breeders'/raisers' awards an amount in excess of the earnings
115 of the accredited horse at West Virginia meets. In addition,
116 should a horse's breeder and raiser qualify for the same
117 award on the same horse, they will each be awarded one half
118 of the proceeds. The bonus referred to in this subdivision
119 may only be paid on the first \$100,000 of any purse and not
120 on any amounts in excess of the first \$100,000.

121 (2) The owner of an accredited West Virginia sire of an
122 accredited thoroughbred horse that earns a purse in any race
123 at a participating West Virginia meet shall receive a bonus
124 award calculated at the end of the year as a percentage of the
125 fund dedicated to sire owners, which shall be fifteen percent

126 of the fund available for distribution in any one year. The
127 total amount available for the sire owners' awards shall be
128 distributed according to the ratio of purses earned by the
129 progeny of accredited West Virginia stallions in the
130 participating races for a particular stallion to the total purses
131 earned by the progeny of all accredited West Virginia
132 stallions in the participating races. However, no sire owner
133 may receive from the fund dedicated to sire owners an
134 amount in excess of thirty-five percent of the accredited
135 earnings for each sire. The bonus referred to in this
136 subdivision shall only be paid on the first \$100,000 of any
137 purse and not on any amounts in excess of the first \$100,000.

138 (3) The owner of an accredited thoroughbred horse that
139 earns a purse in any participating race at a West Virginia
140 meet shall receive a restricted purse supplement award
141 calculated at the end of the year, which shall be twenty-five
142 percent of the fund available for distribution in any one year,
143 based on the ratio of the earnings in the races of a particular
144 race horse to the total amount earned by all accredited race

145 horses in the participating races during that year as a
146 percentage of the fund dedicated to purse supplements.
147 However, the owners may not receive from the fund
148 dedicated to purse supplements an amount in excess of thirty-
149 five percent of the total accredited earnings for each
150 accredited race horse. The bonus referred to in this
151 subdivision shall only be paid on the first \$100,000 of any
152 purse and not on any amounts in excess of the first \$100,000.

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

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

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

166 (f)(1) Each pari-mutuel thoroughbred horse track shall
167 provide at least one restricted race per racing day: *Provided*,
168 That sufficient horses and funds are available. For purposes
169 of ~~this subsection~~ the one restricted race required by this
170 subdivision, there are sufficient horses if there are at least
171 seven single betting interests received for the race: *Provided*,
172 *further however*, That, if sufficient horses and funds are
173 available, any thoroughbred horse racetrack whose licensee
174 participated in the Thoroughbred Development Fund for at
175 least four consecutive calendar years prior to December 31,
176 1992, shall provide ~~two~~ three restricted races per racing day,
177 at least one of which may be split at the discretion of the
178 racing secretary. For the purposes of a second restricted race
179 there shall be at least seven single betting interests and for
180 purposes of a third restricted race there must be at least nine
181 single betting interests in one of the restricted races run that
182 day. The restricted race required by this section must be

183 included in the first nine races written in the condition book
184 for that 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 at each track;

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 horse racetrack which did not participate
198 in the West Virginia Thoroughbred Development fund for a
199 period of more than four consecutive years prior to December
200 31, 1992, may fund restricted races in an amount not to
201 exceed \$1,000,000 per year.

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

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

208 ~~(5) If less than seventy-five percent of the restricted races~~
209 ~~required by this subsection fail to receive enough entries to~~
210 ~~race, the Racing Commission shall, on a quarterly basis,~~
211 ~~dedicate funds in each fund back to the general purse fund of~~
212 ~~the racing association or licensee. *Provided, That no moneys*~~
213 ~~may be dedicated back to a general purse fund if the~~
214 ~~dedication would leave less than \$250,000 in the fund.~~

215 (g) As used in this section, “West Virginia-bred foal”
216 means a horse that was born in the State of West Virginia.

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

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

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

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

231 (i) From July 1, 2001, West Virginia accredited
232 thoroughbred horses have preference for entry in all
233 accredited races at a thoroughbred race track at which the
234 licensee participates in the West Virginia Thoroughbred
235 Development Fund.

236 (j) Beginning July 1, 2006, any racing association
237 licensed by the Racing Commission to conduct thoroughbred
238 racing and permitting and conducting pari-mutuel wagering

239 under the provisions of this article must have a West Virginia
240 Thoroughbred Racing Breeders Program.

(NOTE: The purpose of this bill is to permit up to two restricted races at pari-mutuel thoroughbred horse race tracks if there are at least seven single betting interests. The bill permits a third restricted race if there are at least nine single betting interests. The bill eliminates a provision concerning if less than seventy-five percent of the restricted races fail to receive enough entries to race.

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