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SENATE BILL NO. 638

Offered January 18, 2002

A BILL to amend and reenact §§ 59.1-369 and 59.1-391 of the Code of Virginia, relating to the Virginia Racing Commission; license to own racetrack and satellite facilities.

 Patron—Stolle

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 59.1-369 and 59.1-391 of the Code of Virginia are amended and reenacted as follows:**

§ 59.1-369. Powers and duties of the Commission.

The Commission shall have all powers and duties necessary to carry out the provisions of this chapter and to exercise the control of horse racing as set forth in § 59.1-364. Such powers and duties shall include but not be limited to the following:

1. The Commission is vested with jurisdiction and supervision over all horse racing licensed under the provisions of this chapter including all persons conducting, participating in, or attending any race meeting. It shall employ such persons to be present at race meetings as are necessary to ensure that they are conducted with order and the highest degree of integrity. It may eject or exclude from the enclosure or from any part thereof any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing.

2. The Commission, its representatives, and employees shall visit, investigate, and have free access to the office, track, facilities, satellite facilities or other places of business of any license or permit holder, and may compel the production of any of the books, documents, records, or memoranda of any license or permit holder for the purpose of satisfying itself that this chapter and its regulations are strictly complied with. In addition, the Commission may require the production of an annual balance sheet and operating statement of any person licensed or granted a permit pursuant to the provisions of this chapter and may require the production of any contract to which such person is or may be a party.

3. The Commission shall promulgate regulations and conditions under which horse racing with pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter, including a requirement that licensees post, in a conspicuous place in every place where pari-mutuel wagering is conducted, a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers. Such regulations shall include provisions for affirmative action to assure participation by minority persons in contracts granted by the Commission and its licensees. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any horse racetrack. Such regulations may include penalties for violations. The regulations shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

4. The Commission shall promulgate regulations and conditions under which simulcast horse racing shall may be conducted at a licensed horse racetrack or satellite facility in the Commonwealth and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter. Such regulations shall include provisions that all simulcast horse racing shall comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.) and shall require the holder of an unlimited license to schedule not less than 150 live racing days in the Commonwealth each calendar year; however, the Commission shall have the authority to alter the required number of live racing days through calendar year 2005 based on what the Commission deems to be in the best interest of the Virginia horse industry. Such regulations shall authorize up to six satellite facilities and restrict majority ownership of satellite facilities to an entity licensed by the Commission which owns a horse racetrack in the Commonwealth. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any satellite facility. Wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

5. The Commission may issue subpoenas for the attendance of witnesses before it, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever, in the judgment of the Commission, it is necessary to do so for the effectual discharge of its duties.

6. The Commission may compel any person holding a license or permit to file with the Commission such data as shall appear to the Commission to be necessary for the performance of its duties including but not limited to financial statements and information relative to stockholders and all others with any pecuniary interest in such person. It may prescribe the manner in which books and records of such

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59 persons shall be kept.

60 7. The Commission may enter into arrangements with any foreign or domestic government or
61 governmental agency, for the purposes of exchanging information or performing any other act to better
62 ensure the proper conduct of horse racing.

63 8. The Commission shall report annually to the Governor and the General Assembly, which report
64 shall include a financial statement of the operation of the Commission.

65 9. The Commission may order such audits, in addition to those required by § 59.1-394, as it deems
66 necessary and desirable.

67 10. The Commission shall upon the receipt of a complaint of an alleged criminal violation of this
68 chapter immediately report the complaint to the Attorney General of the Commonwealth and the State
69 Police for appropriate action.

70 11. The Commission shall provide for the withholding of the applicable amount of state and federal
71 income tax of persons claiming a prize or pay-off for a winning wager and shall establish the thresholds
72 for such withholdings.

73 12. The Commission, its representatives and employees may, within the enclosure, stable, or other
74 facility related to the conduct of racing, and during regular or usual business hours, subject any (i)
75 permit holder to personal inspections, including alcohol and drug testing for illegal drugs, inspections of
76 personal property, and inspections of other property or premises under the control of such permit holder
77 and (ii) horse eligible to race at a race meeting licensed by the Commission to testing for substances
78 foreign to the natural horse within the racetrack enclosure or other place where such horse is kept. Any
79 item, document or record indicative of a violation of any provision of this chapter or Commission
80 regulations may be seized as evidence of such violation. All permit holders consent to the searches and
81 seizures authorized by this subdivision, including breath, blood and urine sampling for alcohol and
82 illegal drugs, by accepting the permit issued by the Commission. The Commission may revoke or
83 suspend the permit of any person who fails or refuses to comply with this subdivision or any rules of
84 the Commission. Commission regulations in effect on July 1, 1998, shall continue in full force and
85 effect until modified by the Commission in accordance with law.

86 13. The Commission shall require the existence of a contract between the licensee and the recognized
87 majority horseman's group providing for purses and prizes. Such contract shall be subject to the approval
88 of the Commission, which shall have the power to approve or disapprove any of its items, including but
89 not limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools
90 generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first
91 \$75,000,000 of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the
92 minimum rate of five percent in the horsemen's purse account, (ii) for any amount in excess of
93 \$75,000,000 but less than \$150,000,000 of the total pari-mutuel handle for each breed, the licensee shall
94 deposit funds at the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in
95 excess of \$150,000,000 for each breed, the licensee shall deposit funds at the minimum rate of seven
96 percent in the horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts
97 of the breed that generated the pools and such deposits shall be made within five days from the date on
98 which the licensee receives wagers.

99 14. *Notwithstanding the provisions of § 59.1-391, the Commission may grant provisional limited or*
100 *unlimited licenses to own or operate racetracks or licenses to own satellite wagering facilities to an*
101 *applicant prior to the applicant securing the approval through the local referendum required by*
102 *§ 59.1-391. The provisional licenses issued by the Commission shall only become effective upon the*
103 *approval of the racetrack or satellite wagering facility in a referendum conducted pursuant to*
104 *§ 59.1-391 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.*

105 § 59.1-391. Local referendum required.

106 The Commission shall not grant any initial license to construct, establish, operate or own a racetrack
107 or satellite facility until a referendum approving the question is held in each county ~~or~~, city or town in
108 which such track or satellite facility is to be located, in the following manner:

109 1. A petition, signed by five percent of the qualified voters of such county ~~or~~, city or town, shall be
110 filed with the circuit court of such county ~~or~~, city, or town asking that a referendum be held on the
111 question, "Shall pari-mutuel wagering be permitted at a licensed racetrack in (name of such county ~~or~~,
112 city or town) on live horse racing at, and on simulcast horse racing transmitted from another jurisdiction
113 to, the licensed racetrack on such days as may be approved by the Virginia Racing Commission in
114 accordance with Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia?" In addition, or
115 in the alternative, such petition may ask that a referendum be held on the question, "Shall pari-mutuel
116 wagering be permitted in..... (the name of such county ~~or~~, city or town) at satellite facilities in
117 accordance with Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia?"

118 2. Following the filing of such petition, the court shall, by order of record entered in accordance with
119 § 24.2-684.1, require the regular election officers of such city ~~or~~, county or town to cause a special
120 election to be held to take the sense of the qualified voters on the question. Such election shall be on a

day designated by order of such court, but shall not be later than the next general election unless such general election is within sixty days of the date of the entry of such order, nor shall it be held on a date designated as a primary election.

3. The clerk of such court of record of such city ~~or~~, county *or town* shall publish notice of such election in a newspaper of general circulation in such city ~~or~~, county *or town* once a week for three consecutive weeks prior to such election.

4. The regular election officers of such city or county shall open the polls at the various voting places in such city or county on the date specified in such order and conduct such election in the manner provided by law. The election shall be by ballot which shall be prepared by the electoral board of the city ~~or~~, county *or town* and on which shall be printed either or both of the following questions:

"Shall pari-mutuel wagering be permitted at a licensed racetrack in on live horse racing at, and on simulcast horse racing transmitted from another jurisdiction to, the licensed racetrack on such days as may be approved by the Virginia Racing Commission in accordance with Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia?

☐ Yes

☐ No"

"Shall pari-mutuel wagering be permitted in..... at satellite facilities in accordance with Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia?

☐ Yes

☐ No"

In the blank shall be inserted the name of the city or county in which such election is held. Any voter desiring to vote "Yes" shall mark a check (✓) mark or a cross (x or +) mark or a line (-) in the square provided for such purpose immediately preceding the word "Yes," leaving the square immediately preceding the word "No" unmarked. Any voter desiring to vote "No" shall mark a check (✓) mark or a cross (x or +) mark or a line (-) in the square provided for such purpose immediately preceding the word "No," leaving the square immediately preceding the word "Yes" unmarked.

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the electoral board to the court ordering such election. Thereupon, such court shall enter an order proclaiming the results of such election and a duly certified copy of such order shall be transmitted to the Commission and to the governing body of such city ~~or~~, county *or town*.

No such referendum as described above shall be held more often than every three years in the same county ~~or~~, city *or town*.

A subsequent local referendum shall be required if a license has not been granted by the Commission within five years of the court order proclaiming the results of the election.