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HOUSE BILL NO. 2824

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact §§ 59.1-365 and 59.1-392 of the Code of Virginia, relating to simulcast horse racing and the resulting allocations.

Patrons—Hamilton and Reid

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-365 and 59.1-392 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-365. Definitions.

Unless another meaning is required by the context, the following words shall have the meanings prescribed by this section:

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of \$0.10.

"Commission" means the Virginia Racing Commission.

"Dependent" means a son, daughter, father, mother, brother, sister, or other person, whether or not related by blood or marriage, if such person receives from an officer or employee more than one-half of his financial support.

"Drug" shall have the meaning prescribed by § 54.1-3401. The Commission shall by regulation define and designate those drugs the use of which is prohibited or restricted.

"Enclosure" means all areas of the property of a track to which admission can be obtained only by payment of an admission fee or upon presentation of authorized credentials, and any additional areas designated by the Commission.

"Historical horse racing" means a form of simulcast horse racing that creates pari-mutuel pools from wagers placed on pre-recorded horse races held at a licensed horse racetrack.

"Horse racing" means a competition on a set course involving a race between horses on which pari-mutuel wagering is permitted.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as an officer or employee, who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Licensee" includes any person holding an owner's, operator's or limited license under §§ 59.1-375 through 59.1-386 of this chapter. The licensee under a limited license shall not be deemed an owner for the purposes of owning or operating a satellite facility.

"Member" includes any person designated a member of a nonstock corporation, and any person who by means of a pecuniary or other interest in such corporation exercises the power of a member.

"Pari-mutuel wagering" means the system of wagering on horse races in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, plus any amounts provided by an unlimited licensee, less deductions required or permitted by law and includes pari-mutuel wagering on simulcast horse racing originating within the Commonwealth or from any other jurisdiction.

"Participant" means any person who (i) has an ownership interest in any horse entered to race in the Commonwealth or who acts as the trainer, jockey, or driver of any horse entered to race in the Commonwealth or (ii) takes part in any horse racing subject to the jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering there, including but not limited to a horse owner, trainer, jockey/driver, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee, concessionaire or employee thereof, track employee, or other position the Commission deems necessary to regulate to ensure the integrity of horse racing in Virginia.

"Permit holder" includes any person holding a permit to participate in any horse racing subject to the jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering thereon as provided in § 59.1-387.

"Person" means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.

"Pool" means the amount wagered during a race meeting or during a specified period thereof.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members, beneficially owns or controls, directly or indirectly, five percent or more of the stock of any person which is a licensee, or who in concert with his spouse and immediate family

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59 members, has the power to vote or cause the vote of five percent or more of any such stock. However,
60 "principal stockholder" shall not include a broker-dealer registered under the Securities Exchange Act of
61 1934, as amended, which holds in inventory shares for sale on the financial markets for a publicly
62 traded corporation holding, directly or indirectly, a license from the Commission.

63 "Race meeting" means the whole consecutive period of time during which horse racing with
64 pari-mutuel wagering is conducted by a licensee.

65 "Racetrack" means an outdoor course located in Virginia which is laid out for horse racing and is
66 licensed by the Commission.

67 "Satellite facility" means all areas of the property at which simulcast horse racing is received for the
68 purposes of pari-mutuel wagering, and any additional areas designated by the Commission.

69 "Simulcast horse racing" means the simultaneous transmission of the audio or video portion, or both,
70 of *live or pre-recorded* horse races from a licensed horse racetrack or satellite facility to another
71 licensed horse racetrack or satellite facility, regardless of state of licensure, whether such races originate
72 within the Commonwealth or any other jurisdiction, by satellite communication devices, television
73 cables, telephone lines, or any other means for the purposes of conducting pari-mutuel wagering.

74 "Steward" means a racing official, duly appointed by the Commission, with powers and duties
75 prescribed by Commission regulations.

76 "Stock" includes all classes of stock, partnership interest, membership interest, or similar ownership
77 interest of an applicant or licensee, and any debt or other obligation of such person or an affiliated
78 person if the Commission finds that the holder of such interest or stock derives therefrom such control
79 of or voice in the operation of the applicant or licensee that he should be deemed an owner of stock.

80 "Virginia Breeders Fund" means the fund established to foster the industry of breeding race horses in
81 the Commonwealth of Virginia.

82 § 59.1-392. Percentage retained; tax.

83 A. Any person holding an operator's license to operate a horse racetrack or satellite facility in the
84 Commonwealth pursuant to this chapter shall be authorized to conduct pari-mutuel wagering on horse
85 racing subject to the provisions of this chapter and the conditions and regulations of the Commission.

86 B. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted
87 within the Commonwealth, involving win, place and show wagering, the licensee shall retain an amount
88 not to exceed eighteen percent of such pool and the legitimate breakage, out of which shall be paid one
89 and one-quarter percent to be distributed as follows: one percent to the Commonwealth as a license tax,
90 and one-quarter percent to the locality in which the racetrack is located. The remainder of the eighteen
91 percent retainage shall be paid as provided in subsection D.

92 C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing
93 conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain
94 an amount not to exceed eighteen percent of such pool and the legitimate breakage, out of which shall
95 be paid one and one-quarter percent to be distributed as follows: three-quarters percent to the
96 Commonwealth as a license tax, one-quarter percent to the locality in which the satellite facility is
97 located, and one-quarter percent to the locality in which the racetrack is located. The remainder of the
98 eighteen percent retainage shall be paid as provided in subsection D.

99 D. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
100 live horse racing conducted within the Commonwealth, involving win, place and show wagering, the
101 licensee shall retain an amount not to exceed eighteen percent of such pool and the legitimate breakage,
102 out of which shall be paid:

- 103 1. Eight percent as purses or prizes to the participants in such race meeting;
- 104 2. Seven and one-half percent, and all of the breakage and the proceeds of pari-mutuel tickets
105 unredeemed 180 days from the date on which the race was conducted, to the operator;
- 106 3. One percent to the Virginia Breeders Fund;
- 107 4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 108 5. Five one-hundredths percent to the Virginia Equine Center Foundation;
- 109 6. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 110 7. The remainder of the eighteen percent retainage shall be paid as appropriate under subsection B or

111 C.
112 E. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted
113 within the Commonwealth involving wagering other than win, place and show wagering, the licensee
114 shall retain an amount not to exceed twenty-two percent of such pool and the legitimate breakage, out of
115 which shall be paid two and three-quarters percent to be distributed as follows: two and one-quarter
116 percent to the Commonwealth as a license tax, and one-half percent to the locality in which the
117 racetrack is located. The remainder of the twenty-two percent retainage shall be paid as provided in
118 subsection G.

119 F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing
120 conducted within the Commonwealth involving wagering other than win, place and show wagering, the

121 licensee shall retain an amount not to exceed twenty-two percent of such pool and the legitimate
122 breakage, out of which shall be paid two and three-quarters percent to be distributed as follows: one and
123 three-quarters percent to the Commonwealth as a license tax, one-half percent to the locality in which
124 the satellite facility is located, and one-half percent to the locality in which the racetrack is located. The
125 remainder of the twenty-two percent retainage shall be paid as provided in subsection G.

126 G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
127 live horse racing conducted within the Commonwealth involving wagering other than win, place and
128 show wagering, the licensee shall retain an amount not to exceed twenty-two percent of such pool and
129 the legitimate breakage, out of which shall be paid:

- 130 1. Nine percent as purses or prizes to the participants in such race meeting;
- 131 2. Nine percent, and the proceeds of the pari-mutuel tickets unredeemed 180 days from the date on
132 which the race was conducted, to the operator;
- 133 3. One percent to the Virginia Breeders Fund;
- 134 4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 135 5. Five one-hundredths percent to the Virginia Equine Center Foundation;
- 136 6. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 137 7. The remainder of the twenty-two percent retainage shall be paid as appropriate under subsection E
138 or F.

139 H. On pari-mutuel wagering generated by simulcast horse racing transmitted from jurisdictions
140 outside the Commonwealth, the licensee may, with the approval of the Commission, commingle pools
141 with the racetrack where the transmission emanates or establish separate pools for wagering within the
142 Commonwealth. All simulcast horse racing in this subsection must comply with the Interstate Horse
143 Racing Act of 1978 (15 U.S.C. § 3001 et seq.).

144 I. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted
145 from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee
146 shall retain one and one-quarter percent of such pool to be distributed as follows: three-quarters percent
147 to the Commonwealth as a license tax, and one-half percent to the Virginia locality in which the
148 racetrack is located.

149 J. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse
150 racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show
151 wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows:
152 three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality in which
153 the satellite facility is located, and one-quarter percent to the Virginia locality in which the racetrack is
154 located.

155 K. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
156 simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place
157 and show wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed
158 as follows:

- 159 1. One percent of the pool to the Virginia Breeders Fund;
- 160 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 161 3. Five one-hundredths percent to the Virginia Equine Center Foundation; and
- 162 4. Five one-hundredths percent to the Virginia Horse Industry Board.

163 L. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted
164 from jurisdictions outside the Commonwealth, involving wagering other than win, place and show
165 wagering, the licensee shall retain two and three-quarters percent of such pool to be distributed as
166 follows: one and three-quarters percent to the Commonwealth as a license tax, and one percent to the
167 Virginia locality in which the racetrack is located.

168 M. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse
169 racing transmitted from jurisdictions outside the Commonwealth, involving wagering other than win,
170 place and show wagering, the licensee shall retain two and three-quarters percent of such pool to be
171 distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, one-half
172 percent to the locality in which the satellite facility is located, and one-half percent to the Virginia
173 locality in which the racetrack is located.

174 N. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
175 simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving wagering
176 other than win, place and show wagering, the licensee shall retain one and one-quarter percent of such
177 pool to be distributed as follows:

- 178 1. One percent of the pool to the Virginia Breeders Fund;
- 179 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 180 3. Five one-hundredths percent to the Virginia Equine Center Foundation; and
- 181 4. Five one-hundredths percent to the Virginia Horse Industry Board.

182 O. Moneys payable to the Commonwealth shall be deposited in the general fund. Gross receipts for
183 license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 shall not include pari-mutuel
184 wagering pools and license taxes authorized by this section.

185 P. All payments by the licensee to the Commonwealth or any locality shall be made within five days
186 from the date on which such wagers are received by the licensee. All payments by the licensee to the
187 Virginia Breeders Fund shall be made to the Commission within five days from the date on which such
188 wagers are received by the licensee. All payments by the licensee to the Virginia-Maryland Regional
189 College of Veterinary Medicine, the Virginia Equine Center Foundation, and the Virginia Horse Industry
190 Board shall be made by the first day of each quarter of the calendar year. All payments made under this
191 section shall be used in support of the policy of the Commonwealth to sustain and promote the growth
192 of a native industry.

193 Q. If a satellite facility is located in more than one locality, any amount a licensee is required to pay
194 under this section to the locality in which the satellite facility is located shall be prorated in equal shares
195 among those localities.

196 R. Any contractual agreement between a licensee and other entities concerning the distribution of the
197 remaining portion of the retainage under subsections I through N shall be subject to the approval of the
198 Commission.

199 S. The horsemen's organizations representing a majority of the horsemen racing at a licensed
200 unlimited race meeting may, subject to the approval of the Commission, withdraw for administrative
201 costs associated with serving the interests of the horsemen an amount not to exceed two percent of the
202 amount in the horsemen's account.

203 T. The legitimate breakage from each pari-mutuel pool for both live racing and simulcast horse
204 racing shall be distributed as follows:

205 1. Seventy percent to be retained by the licensee to be used for capital improvements that are subject
206 to approval of the Commission; and

207 2. Thirty percent to be deposited in the Racing Benevolence Fund, administered jointly by the
208 licensee and the horsemen's organization representing a majority of the horsemen racing at a licensed
209 unlimited race meeting, to be disbursed with the approval of the Commission for gambling addiction and
210 substance abuse counseling, recreational, educational or other related programs.

211 *U. Notwithstanding any other subsection of this section, on pari-mutuel pools generated by wagering
212 on historical horse racing at each Virginia satellite facility and the racetrack, after payment of all prizes
213 to winning wagers, the Commonwealth Transportation Trust Fund shall receive forty-nine percent of
214 such amount to be used for highway maintenance and any other purposes determined by law, the
215 licensee shall receive forty-nine percent of such amount, and the horsemen's purse account shall receive
216 two percent of such amount. Proceeds of pari-mutuel tickets unredeemed 180 days from the date on
217 which the wager was made and the legitimate breakage from historical horse racing shall be retained
218 by the licensee.*