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SENATE BILL NO. 1429

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 2, 2011)

(Patrons Prior to Substitute—Senators Norment and Herring [SB 1332 and SB 1333])

A *BILL to amend and reenact §§ 59.1-365, 59.1-369, 59.1-370, 59.1-372, 59.1-378, 59.1-378.1, 59.1-382, 59.1-387, 59.1-390, 59.1-391, 59.1-392, and 59.1-401 of the Code of Virginia, relating to the Virginia Racing Commission; net pool wagering; retainage.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1- 365, 59.1-369, 59.1-370, 59.1-372, 59.1-378, 59.1-378.1, 59.1-382, 59.1-387, 59.1-390, 59.1-391, 59.1-392, and 59.1-401 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:

"Advance deposit account wagering" means a method of pari-mutuel wagering conducted in the Commonwealth that is permissible under the Interstate Horseracing Act, § 3001 et seq. of Chapter 57 of Title 15 of the United States Code, and in which an individual may establish an account with an entity, licensed by the Commission, to place pari-mutuel wagers in person or electronically.

"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.

"Handle" means the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.

"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.

"Net pool wagering" means a method of pari-mutuel wagering whereby amounts are awarded to winning wagers relative to the contribution, net of takeouts, to a pool by each participating jurisdiction or, if applicable, site.

"Pari-mutuel wagering" means the system of wagering on horse races in which those who wager on (i) horses that finish in the position or positions or (ii) other aspects of horse races 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, or 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.

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

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

63 "Principal stockholder" means any person who individually or in concert with his spouse and
64 immediate family members, beneficially owns or controls, directly or indirectly, five percent or more of
65 the stock of any person which is a licensee, or who in concert with his spouse and immediate family
66 members, has the power to vote or cause the vote of five percent or more of any such stock. However,
67 "principal stockholder" shall not include a broker-dealer registered under the Securities Exchange Act of
68 1934, as amended, which holds in inventory shares for sale on the financial markets for a publicly
69 traded corporation holding, directly or indirectly, a license from the Commission.

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

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

74 "Retainage" means the total amount deducted from the pari-mutuel wagering pool for (i) a license fee
75 to the Commission and localities, (ii) the unlimited license, (iii) purse money for the participants, (iv)
76 the Virginia Breeders Fund, and (v) certain enumerated organizations as required or permitted by law,
77 regulation or contract approved by the Commission.

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

80 "Simulcast horse racing" means the simultaneous transmission of the audio or video portion, or both,
81 of horse races from a licensed horse racetrack or satellite facility to another licensed horse racetrack or
82 satellite facility, regardless of state of licensure, whether such races originate within the Commonwealth
83 or any other jurisdiction, by satellite communication devices, television cables, telephone lines, or any
84 other means for the purposes of conducting pari-mutuel wagering.

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

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

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

93 § 59.1-369. Powers and duties of the Commission.

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

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

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

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

121 4. The Commission shall promulgate regulations and conditions under which simulcast horse racing

shall 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 based on what the Commission deems to be in the best interest of the Virginia horse industry. Such regulations shall authorize up to 40 20 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. Except as authorized pursuant to subdivision 5, wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

5. The Commission shall promulgate regulations and conditions regulating and controlling advance deposit account wagering. Such regulations shall include, but not be limited to, (i) standards, qualifications, and procedures for the issuance of a license to any such entity or entities pursuant to § 59.1-375 to operate pari-mutuel wagering in the Commonwealth; (ii) provisions regarding access to books, records, and memoranda, and submission to investigations and audits, as authorized by subdivisions 2 and 10 of this section; and (iii) provisions regarding the collection of all revenues due to the Commonwealth from the placing of such wagers. No pari-mutuel wager may be made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at any public elementary or secondary school, or any public college or university. The Commission also shall ensure that, except for this method of pari-mutuel wagering, all wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

Notwithstanding the provisions of § 59.1-392, the allocation of revenue from advance deposit account wagering shall include (i) a licensee fee paid to the Commission; (ii) an additional fee equal to 10 percent of all wagers made within the Commonwealth placed through an advance deposit account wagering licensee, out of which shall be paid: (a) one-half to all unlimited licensees and (b) one-half to representatives of the recognized majority horsemen groups; and (iii) an additional fee equal to one percent of all wagers made within the Commonwealth placed through an advance deposit account wagering licensee, which shall be paid to the Virginia Breeders Fund.

Nothing in this subdivision shall be construed to limit the Commission's authority as set forth elsewhere in this section.

6. 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.

7. 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 persons shall be kept.

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

9. The Commission shall report annually on or before March 1 to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission.

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

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

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

13. The Commission, its representatives and employees may, within the enclosure, stable, or other facility related to the conduct of racing, and during regular or usual business hours, subject any (i) permit holder to personal inspections, including alcohol and drug testing for illegal drugs, inspections of personal property, and inspections of other property or premises under the control of such permit holder and (ii) horse eligible to race at a race meeting licensed by the Commission to testing for substances foreign to the natural horse within the racetrack enclosure or other place where such horse is kept. Any item, document or record indicative of a violation of any provision of this chapter or Commission regulations may be seized as evidence of such violation. All permit holders consent to the searches and

183 seizures authorized by this subdivision, including breath, blood and urine sampling for alcohol and
184 illegal drugs, by accepting the permit issued by the Commission. The Commission may revoke or
185 suspend the permit of any person who fails or refuses to comply with this subdivision or any rules of
186 the Commission. Commission regulations in effect on July 1, 1998, shall continue in full force and
187 effect until modified by the Commission in accordance with law.

188 14. The Commission shall require the existence of a contract between the licensee and the recognized
189 majority horseman's group providing for purses and prizes. Such contract shall be subject to the approval
190 of the Commission, which shall have the power to approve or disapprove any of its items, including but
191 not limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools
192 generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first \$75
193 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum
194 rate of five percent in the horsemen's purse account, (ii) for any amount in excess of \$75 million but
195 less than \$150 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at
196 the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in excess of \$150
197 million for each breed, the licensee shall deposit funds at the minimum rate of seven percent in the
198 horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts of the breed
199 that generated the pools and such deposits shall be made within five days from the date on which the
200 licensee receives wagers.

201 15. Notwithstanding the provisions of § 59.1-391, the Commission may grant provisional limited
202 licenses or provisional unlimited licenses to own or operate racetracks or satellite facilities to an
203 applicant prior to the applicant securing the approval through the local referendum required by
204 § 59.1-391. The provisional licenses issued by the Commission shall only become effective upon the
205 approval of the racetrack or satellite wagering facilities in a referendum conducted pursuant to
206 § 59.1-391 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.

207 § 59.1-370. Commission; Executive Director; staff; stewards.

208 A. The Commission shall appoint an Executive ~~Secretary~~ *Director* and such other employees as it
209 deems essential to perform its duties under this chapter, who shall possess such authority and perform
210 such duties as the Commission shall prescribe or delegate to them. Such employees may include
211 stewards, *judges*, chemists, veterinarians, inspectors, accountants, guards and such other employees
212 deemed by the Commission to be necessary for the supervision and the proper conduct of the highest
213 standard of horse racing. Such employees shall be compensated as provided by the Commission.

214 The Executive ~~Secretary~~ *Director*, in addition to any other duties prescribed by the Commission,
215 shall keep a true and full record of all proceedings of the Commission and preserve at the Commission's
216 general office all books, documents and papers of the Commission. Neither the Executive ~~Secretary~~
217 *Director* nor the spouse or any member of the immediate family of the Executive ~~Secretary~~ *Director*
218 shall make any contributions to a candidate for office or office holder at the local or state level, or
219 cause such a contribution to be made on his behalf.

220 B. The stewards *and judges* appointed by the Commission shall act as racing officials to oversee the
221 conduct of (i) horse racing at licensed racetracks and (ii) simulcast horse racing at satellite facilities. The
222 stewards *and judges* shall enforce the Commission's regulations and the provisions of this chapter and
223 shall have authority to interpret the Commission's regulations and to decide all questions of racing not
224 specifically covered by the regulations of the Commission. Nothing in this subsection shall limit the
225 authority of the Commission *or the Executive Director* to carry out the provisions of this chapter and to
226 exercise control of horse racing as set forth in § 59.1-364, including the power to review all decisions
227 and rulings of the stewards *and judges*.

228 § 59.1-372. Virginia Breeders Fund.

229 There is hereby created within the State Treasury the Virginia Breeders Fund, which Fund, together
230 with the interest thereon, shall be administered in whole or in part by the Commission or by an entity
231 designated by the Commission. The cost of administering and promoting the Fund shall be deducted
232 from the Fund, and the balance shall be disbursed by the Commission or designated entity to the
233 breeders of Virginia-bred horses that win races at race meetings designated by the Commission, to the
234 owners of Virginia sires of Virginia-bred horses that win races at race meetings designated by the
235 Commission, to the owners of Virginia-bred horses that win or earn purse money in nonrestricted races
236 at racetracks in Virginia licensed by the Commission, to the owners of Virginia-bred horses that win
237 races at race meetings designated by the Commission ~~and for~~, to purses for races restricted to
238 Virginia-bred or Virginia-sired horses or both at race meetings designated by the Commission, *and to*
239 *the Virginia Thoroughbred Association for its operations*. To assist it in establishing this awards and
240 incentive program to foster the industry of breeding racehorses in Virginia, the Commission shall
241 appoint an advisory committee composed of two members from each of the registered breed associations
242 representing each breed of horse participating in the Fund program, one member representing the owners
243 and operators of racetracks and one member representing all of the meets sanctioned by the National
244 Steeplechase Association.

§ 59.1-378. Issuance of owner's license.

A. The Commission shall consider all applications for an owner's license and may grant a valid owner's license to applicants who meet the criteria set forth in this chapter and established by the Commission. The Commission shall deny a license to any applicant, unless it finds that the applicant's facilities are or will be appropriate for the finest quality of racing, and meet or will meet the minimum standards that any track provided for standard breed racing be at least five-eighths of a mile, that any dirt track provided for flat racing be at least one mile, and that any track provided for flat or jump racing on the turf be at least seven-eighths of a mile.

B. The Commission shall deny a license to an applicant if it finds that for any reason the issuance of a license to the applicant would not be in the interest of the people of the Commonwealth or the horse racing industry in the Commonwealth, or would reflect adversely on the honesty and integrity of the horse racing industry in the Commonwealth, or that the applicant, or any officer, partner, principal stockholder, or director of the applicant:

1. Has knowingly made a false statement of material fact or has deliberately failed to disclose any information requested;

2. Is or has been found guilty of any illegal, corrupt, or fraudulent act, practice, or conduct in connection with any horse racing in this or any other state, or has been convicted of a felony;

3. Has at any time knowingly failed to comply with the provisions of this chapter or of any regulations of the Commission;

4. Has had a license or permit to hold or conduct a horse race meeting denied for just cause, suspended, or revoked in any other state or country;

5. Has legally defaulted in the payment of any obligation or debt due to the Commonwealth;

6. Has constructed or caused to be constructed a racetrack or satellite facility for which a license was required under § 59.1-377 hereof without obtaining such license, or has deviated substantially, without the permission of the Commission, from the plans and specifications submitted to the Commission; or

7. Is not qualified to do business in Virginia or is not subject to the jurisdiction of the courts of this Commonwealth.

C. The Commission shall deny a license to any applicant unless it finds:

1. That, if the corporation is a stock corporation, that such stock is fully paid and nonassessable, has been subscribed and paid for only in cash or property to the exclusion of past services, and, if the corporation is a nonstock corporation, that there are at least twenty members;

2. That all principal stockholders or members have submitted to the jurisdiction of the Virginia courts, and all nonresident principal stockholders or members have designated the Executive Secretary ~~Director~~ of the Commission as their agent for receipt of process;

3. That the applicant's articles of incorporation provide that the corporation may, on vote of a majority of the stockholders or members, purchase at fair market value the entire membership interest of any stockholder or require the resignation of any member who is or becomes unqualified for such position under § 59.1-379; and

4. That the applicant meets the criteria established by the Commission for the granting of an owner's license.

§ 59.1-378.1. Licensing of owners or operators of certain pari-mutuel facilities.

A. Notwithstanding the provisions of § 59.1-391, the Commission may grant a license, for a duration to be determined by the Commission, to the owner or operator of a ~~steeplechase~~ *thoroughbred or harness racing* facility for the purpose of conducting pari-mutuel wagering on ~~steeplechase~~ *thoroughbred or harness* race meetings at that facility for a period not to exceed ~~fourteen~~ 14 days in any calendar year, provided that, prior to making application for such license,:

1. *With respect to thoroughbred racing at a steeplechase facility*, (i) the steeplechase facility has been sanctioned by the Virginia Steeplechase Association or National Steeplechase Association and (ii) the owner or operator of such facility has been granted tax-exempt status under § 501 (c) (3) or (4) of the Internal Revenue Code; *or*

2. *With respect to thoroughbred or harness racing at a facility, the owner or operator of such facility is a fair member of the Virginia Association of Fairs, Inc., or its successor nonprofit association.*

For purposes of this section, "steeplechase facility" means a turf racecourse constructed over natural ground which is utilized primarily for races where horses jump over fences.

B. In deciding whether to grant any license pursuant to this section, the Commission shall consider (i) the results of, circumstances surrounding, and issues involved in any referendum conducted under the provisions of § 59.1-391 and (ii) whether the Commission had previously granted a license to such facility, owner, or operator.

C. In no event shall the Commission issue more than twelve licenses in a calendar year pursuant to this section.

The officers, directors, partners, spouses, and immediate family members thereof of a tax-exempt

entity granted a license in accordance with this section may make contributions to any candidate for public office or public office holder at the state or local level.

§ 59.1-382. Issuance of operator's license.

The Commission shall promptly consider any application for an operator's license and grant a valid operator's license to applicants who meet the criteria set forth in this chapter and established by the Commission. The Commission shall deny a license to any applicant, unless it finds:

1. That such applicant is a corporation organized under Title 13.1 or comparable law of another state, and qualified to do business in Virginia;

2. That, if the corporation is a stock corporation, all principal stockholders have submitted to the jurisdiction of the Virginia courts and all nonresident principal stockholders have designated the Executive Secretary Director of the Commission as their agent for process, and further, that an application shall also contain information as required by § 59.1-377;

3. That the applicant's articles of incorporation provide that the corporation may, on vote of a majority of the stockholders or members, purchase at fair market value the entire membership interest of any stockholder, or require the resignation of any member, who is or becomes unqualified for such position under § 59.1-379;

4. That the applicant would be qualified for a license to own such horse racetrack or satellite facility under the provisions of §§ 59.1-378 and 59.1-379;

5. That the applicant has made provisions satisfactory to the Commission for the detection and prosecution of any illegal, corrupt or fraudulent act, practice or conduct in connection with any race meeting or pari-mutuel wagering, that the applicant has made provision for membership in the Thoroughbred Racing Association or other equivalent applicable association, and that the applicant shall utilize the services of the Thoroughbred Racing Protective Bureau or any other protective agency acceptable to the Virginia Racing Commission;

6. That the applicant has met the criteria established by the Commission for the granting of an operator's license.

§ 59.1-387. Permit required; exception.

A. No participant shall engage in any horse racing subject to the jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering thereon, including but not limited to as a horse owner, trainer, jockey, exercise rider, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee, concessionaire or employee thereof, track employee, or other positions the Commission deems necessary to regulate to ensure the integrity of horse racing in Virginia, unless such person possesses a permit therefor from the Commission, and complies with the provisions of this chapter and all Commission regulations. No permit issued under the provisions of this chapter shall be transferable.

B. The Commission may waive the permit requirement for any person who possesses a valid permit or license to participate in the conduct of horse racing in another racing jurisdiction and participates in horse racing in Virginia on nonconsecutive racing days.

C. Once a horse is entered to run in Virginia, all participants shall come under the jurisdiction of the Commission and its stewards *and judges*, and shall be subject to regulations of the Commission and sanctions it or its stewards *or judges* may impose.

§ 59.1-390. Suspension or revocation of permit; fine.

A. The Commission, acting by and through its stewards *or judges* or at a meeting at which a quorum is present, may suspend or revoke a permit issued under this chapter or fine the holder of such permit a sum not to exceed \$10,000, or suspend a permit issued by this chapter and fine the holder of such permit a sum not to exceed \$10,000 after a hearing for which proper notice has been given to the permittee, in any case where it determines by a preponderance of the evidence that any provision of this chapter, or any regulation or condition of the Commission, has not been complied with, or has been violated. The Commission may revoke such permit, after such hearing, if it finds that facts not known by it at the time it was considering the application indicate that such permit should not have been issued. Deliberations of the Commission under this section shall be conducted pursuant to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). If any permit is suspended or revoked, the Commission shall state its reasons for doing so, which shall be entered of record. Such action shall be final unless an appeal is taken in accordance with § 59.1-373. Suspension or revocation of a permit by the Commission for any violation shall not preclude criminal liability for such violation.

B. The Commission, acting by and through its stewards *or judges*, or at a meeting at which a quorum is present, may summarily suspend the permit of a person for a period of not more than 90 days pending a hearing and final determination by the Commission or its stewards *or judges*, if the Commission or its stewards *or judges* determine the protection of the integrity of horse racing requires emergency action. The Commission or its stewards *or judges* shall (i) schedule a hearing within 14 business days after the permit is summarily suspended and (ii) notify the permit holder, not less than five business days before the hearing, of the date, time and place of the hearing.

§ 59.1-391. Local referendum required.

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

1. A petition, signed by five percent of the qualified voters of such county, city, or town shall be filed with the circuit court of such county, city, or town asking that a referendum be held on the question, "Shall pari-mutuel wagering be permitted at a licensed racetrack in (name of such county, city, or town) 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?" In addition, or in the alternative, such petition may ask that a referendum be held on the question, "Shall pari-mutuel wagering be permitted in (the name of such county, city, or town) at satellite facilities in accordance with Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia?"

2. Following the filing of such petition, the court shall, by order of record entered in accordance with § 24.2-684.1, require the regular election officers of such city, county, or town to cause a special 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 60 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, county, or town shall publish notice of such election in a newspaper of general circulation in such city, 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, 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, county, or town 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, county, or town.

No such referendum as described above shall be held more often than every three years in the same county, 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. Town, for purposes of this section, means any town with a population of 5,000 or more, *which population shall be calculated based upon the most recent population estimate by the U.S. Census Bureau or the most recent population update from the National Planning Data Corporation or other similar recognized source.*

§ 59.1-392. Percentage retained; tax.

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

B. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain ~~an amount~~ *not to exceed eighteen percent of such pool a percentage amount approved by the Commission as jointly requested by a recognized majority horseman's group and an unlimited licensee* and the legitimate breakage, out of which shall be paid one and one-quarter percent to be distributed as follows: one

429 percent to the Commonwealth as a license tax, and one-quarter percent to the locality in which the
430 racetrack is located. The remainder of the ~~eighteen percent~~ retainage shall be paid as provided in
431 subsection D; *provided, however, that if the percentage amount approved by the Commission is other*
432 *than 18 percent, the amounts provided in subsection D shall be adjusted by the proportion that the*
433 *approved percentage amount bears to 18 percent.*

434 C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing
435 conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain
436 ~~an amount not to exceed eighteen percent of such pool~~ *a percentage amount approved by the*
437 *Commission as jointly requested by a recognized majority horseman's group and an unlimited licensee*
438 *and the legitimate breakage, out of which shall be paid one and one-quarter percent to be distributed as*
439 *follows: three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality*
440 *in which the satellite facility is located, and one-quarter percent to the locality in which the racetrack is*
441 *located. The remainder of the* ~~eighteen percent~~ *retainage shall be paid as provided in subsection D;*
442 *provided, however, that if the percentage amount approved by the Commission is other than 18 percent,*
443 *the amounts provided in subsection D shall be adjusted by the proportion that the approved percentage*
444 *amount bears to 18 percent.*

445 D. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
446 live horse racing conducted within the Commonwealth, involving win, place and show wagering, the
447 licensee shall retain ~~an amount not to exceed eighteen percent of such pool~~ *a percentage amount*
448 *approved by the Commission as jointly requested by a recognized majority horseman's group and an*
449 *unlimited licensee* and the legitimate breakage, out of which shall be paid:

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

458 C.
459 E. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted
460 within the Commonwealth involving wagering other than win, place and show wagering, the licensee
461 shall retain ~~an amount not to exceed twenty-two percent of such pool~~ *a percentage amount approved by*
462 *the Commission as jointly requested by a recognized majority horseman's group and an unlimited*
463 *licensee* and the legitimate breakage, out of which shall be paid two and three-quarters percent to be
464 distributed as follows: two and one-quarter percent to the Commonwealth as a license tax, and one-half
465 percent to the locality in which the racetrack is located. The remainder of the ~~twenty-two percent~~
466 ~~retainage~~ shall be paid as provided in subsection G; *provided, however, that if the percentage amount*
467 *approved by the Commission is other than 22 percent, the amounts provided in subsection G shall be*
468 *adjusted by the proportion that the approved percentage amount bears to 22 percent.*

469 F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing
470 conducted within the Commonwealth involving wagering other than win, place and show wagering, the
471 licensee shall retain ~~an amount not to exceed twenty-two percent of such pool~~ *a percentage amount*
472 *approved by the Commission as jointly requested by a recognized majority horseman's group and an*
473 *unlimited licensee* and the legitimate breakage, out of which shall be paid two and three-quarters percent
474 to be distributed as follows: one and three-quarters percent to the Commonwealth as a license tax,
475 one-half percent to the locality in which the satellite facility is located, and one-half percent to the
476 locality in which the racetrack is located. The remainder of the ~~twenty-two percent~~ retainage shall be
477 paid as provided in subsection G; *provided, however, that if the percentage amount approved by the*
478 *Commission is other than 22 percent, the amounts provided in subsection G shall be adjusted by the*
479 *proportion that the approved percentage amount bears to 22 percent.*

480 G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
481 live horse racing conducted within the Commonwealth involving wagering other than win, place and
482 show wagering, the licensee shall retain ~~an amount not to exceed twenty-two percent of such pool~~ and
483 the legitimate breakage *and a percentage amount approved by the Commission as jointly requested by a*
484 *recognized majority horseman's group and an unlimited licensee*, out of which shall be paid:

- 485 1. Nine percent as purses or prizes to the participants in such race meeting;
- 486 2. Nine percent, and the proceeds of the pari-mutuel tickets unredeemed 180 days from the date on
487 which the race was conducted, to the operator;
- 488 3. One percent to the Virginia Breeders Fund;
- 489 4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 490 5. Five one-hundredths percent to the Virginia Horse Center Foundation;

6. Five one-hundredths percent to the Virginia Horse Industry Board; and
 7. The remainder of the ~~twenty-two percent~~ retainage shall be paid as appropriate under subsection E or F.

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

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

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

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

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

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

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

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

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

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

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

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

R. Any contractual agreement between a licensee and other entities concerning the distribution of the

552 remaining portion of the retainage under subsections I through N shall be subject to the approval of the
553 Commission.

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

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

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

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

566 § 59.1-401. Possessing drugs.

567 The possession or transportation of any drug except those permitted by regulations of the
568 Commission within the racing enclosure is prohibited except upon a bona fide veterinarian's prescription
569 with complete statement of uses and purposes on the container. A copy of such prescription shall be
570 filed with the stewards *or judges*. Any person knowingly violating the provisions of this section relating
571 to the legal possession of drugs shall be guilty of a Class 1 misdemeanor. The provisions of the Drug
572 Control Act (§ 54.1-3400 et seq.) shall apply in situations where drugs regulated by that Act are within
573 the racing enclosure.

574 **2. That the Virginia Racing Commission shall promulgate regulations to implement the provisions**
575 **of this act to be effective within 280 days of its enactment.**