

Department of Planning and Budget 2011 Fiscal Impact Statement

1. Bill Number: HB1832

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

2. Patron: Scott, E.T.

3. Committee: Passed Both Houses

4. Title: Virginia Racing Commission.

5. Summary: This bill: (i) states that a person shall be guilty of a Class 1 misdemeanor for illegal wagering on horse racing if he makes, places, or receives any bet or wager on a horse race by any means other than those regulated by the Virginia Racing Commission (VRC); (ii) authorizes VRC to revoke a license if an entity withholds the sale at fair market value to an unlimited licensee of simulcast horse racing signals that such entity sells to other racetracks, satellite facilities, or advance deposit account wagering providers, (iii) authorizes VRC to set the levels of retainage from live racing at a percentage as jointly requested by a recognized majority horsemen's group and an unlimited licensee. Should a new retainage amount be set, payments to the purses/prizes to the participants in the race, to the operator, and to the Virginia Breeders Fund are to be adjusted by the proportion that the newly-approved percentage bears to the original percentage; (iv) increases the retainage for wagering on simulcast racing and adds distribution to the Virginia Thoroughbred Association to the entities that qualify for a distribution of retainage; and (v) contains an enactment clause requiring VRC to promulgate emergency regulations.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Final.

8. Fiscal Implications: (see below)

(i) Establishes provisions for illegal wagering on a horse race; authorizes penalty

This bill classifies a violation of the provisions of the bill as a Class 1 misdemeanor offense.

Fiscal Impact: Class 1 misdemeanor convictions result in sentences of up to 12 months in jail (and a fine of up to \$2,500). Any increase in jail population increases costs to the state. Presently, the state pays localities \$4.00 per day for each misdemeanant or otherwise local responsible prisoner held in a jail. In addition, the state funds most of the jails' operating costs on a per prisoner, per day basis, at an average of \$33.01 per state inmate, per day, according to the Compensation Board's FY 2009 Jail Cost Report (released November 1, 2010). Although it is unknown how many Class 1 misdemeanor charges will result from this bill, there is the possibility that it could result in a fiscal impact to the state.

(ii) Authorizes VRC to revoke a license if an entity withholds the sale at fair market value to an unlimited licensee of simulcast horse racing signals that such entity sells to other racetracks, satellite facilities, or advance deposit account wagering providers

The bill authorizes VRC to refrain from issuing, or revoke a license already issued to an entity that withholds the sale at fair market value of simulcast horse racing signals to other racetracks, satellite facilities, or advance deposit account wagering providers, either within or outside of the Commonwealth.

Fiscal Impact: VRC anticipates that this provision could have a fiscal impact on the state, although the exact impact is indeterminate at this time.

(iii) Authorizes the Virginia Racing Commission (VRC) to set percentage retained, § 59.1-392

This bill authorizes VRC to set the amount of percentage retained (“retainage”) on all situations resulting in pari-mutuel pools generated by wagering on live racing at the racetrack and satellite facilities. Any change to the retainage by VRC is to be in response to a joint request from a recognized majority horseman’s group and an unlimited licensee. Under current law, the rates of retainage are established by Code. This bill states that if the retainage amount is altered, the distributions to the participants in the race (subdivision D1/G1), to the operator (subdivision D2/G2), and to the Virginia Breeders Fund (subdivision D3/G3) are to be adjusted by the proportion that the newly-approved percentage bears to the original percentage. The distribution amounts for payments to the Commonwealth as a license tax (Paragraph B, C, E, and F), the locality of the racetrack (Paragraph B, C, E, and F), the Virginia-Maryland Regional College of Veterinary Medicine (subdivision D4/G4), the Virginia Horse Center Foundation (subdivision D5/G5), and the Virginia Horse Industry Board (subdivision D6/G6), are to remain at their distribution percentages currently set-out in the Code.

Fiscal Impact: The changes that this version of the bill makes to the distribution amounts could result in an uneven retainage balance, either positive or negative. The bill does not speak to how VRC is to make the determination of which entity is to receive less or more than what the Code requires. To create a specific example, revising the retainage on win, place, and show wagers on live racing made at the racetrack (subdivisions B-D) from 18 percent, down to 13.5 percent (a decrease of 25 percent), would result in a shortage of retainage available as compared to amounts that need to be distributed (see the second column of the chart, below). In this particular example, the mandated distribution amounts are greater than the cash available to distribute. While this example refers to the distributions in subdivisions B-D, the results would be similar for retainage on wagering other than win, place, and show on live racing at the racetrack or satellite wagering facilities (subdivisions C-F).

If the intent of the bill is to make the total distribution of retainage exactly equal to the total amount of retainage available for distribution, the following amendments are needed (the example below would need to be applied to all relevant sections):

- Line 155, after “percent,” strike remainder of line and insert: *“the difference between the approved retainage percentage and 18 percent is subtracted (or if increased, added) to the total of the amounts provided in subdivisions D 1, 2, and 3 prior to revision of the retainage*

amount. The approved individual distributions for subdivisions D 1, 2, and 3, shall be determined by dividing the new total of the amounts provided in subdivisions D 1, 2, and 3 by the original total of amounts provided in subdivisions D 1, 2, and 3, and then applying this percentage change to each of the amounts in subdivisions D 1, 2, and 3.”

- Line 156, strike entire line.

An example of the calculation and impact of the recommended amendments are shown in the third column of the chart, below:

		Current retainage, distributions made according to current law	Revised retainage, distributions made according to bill as written	Revised retainage, distributions made according to proposed revision
1	Total Retainage	18.00%	13.50%	13.50%
2	Percentage the revised retainage is to the current retainage: Apply to all subdivisions but D1, D2, D3	-	75.00%	75.00%
<i>Proposed Revision: Calculate the percentage the revised retainage is to the current retainage for D1, D2, and D3: Apply this percentage individually to the current retainage allocations for D1, D2, and D3 to attain revised retainage percentages for each (see rows 3-5 in chart)</i>				
	<u>Step 1:</u> Calculate the difference between the current retainage and the revised retainage	-	-	-4.50%
	<u>Step 2:</u> Calculate the revised total retainage allocation for D1, D2 and D3*	-	-	12.00%
	<u>Step 3:</u> Calculate the percentage the revised total retainage allocation for D1, D2 and D3 is to current retainage allocation for D1, D2 and D3**	-	-	72.73%
3	D1: Purses or prizes to participants	8.00%	6.00%	5.82%
4	D2: Operator	7.50%	5.63%	5.45%
5	D3: Virginia Breeders Fund	1.00%	0.75%	0.73%
6	Total, D1-3	16.50%	12.38%	12.00%
7	D4: Virginia-Maryland Regional College of Veterinary Medicine	0.15%	0.15%	0.15%
8	D5: Horse Center Foundation	0.05%	0.05%	0.05%
9	D6: Horse Industry Board	0.05%	0.05%	0.05%
10	Total, D4-6	0.25%	0.25%	0.25%
11	B: License tax (state)	1.00%	1.00%	1.00%
12	B: Locality of racetrack	0.25%	0.25%	0.25%
13	Total Retainage	18.00%	13.88%	13.50%
14	Amount revised distributions exceed total retainage	0.00%	0.38%	0.00%

*The current total allocation of retainage for D1, D2, and D3, (16.5%) minus difference between current retainage and revised retainage (4.5%, for the example listed above)

**Revised total allocation for retainage for D1, D2, and D3 (12%, for the example listed above), divided by the current total allocation of retainage for D1, D2, and D3 (16.5%)

(iv) Increases the retainage and adds distribution to the Virginia Thoroughbred Association

This bill increases the retainage from one and one quarter percent of the total pari-mutuel pool generated by wagering, to one and thirty one-hundredths and allots the increase of five one-hundredths to the Virginia Thoroughbred Association for the promotion of breeding in the Commonwealth.

Fiscal Impact: This five-hundredths percent payment does not affect the amounts that would otherwise come to the state. VRC is responsible for making the additional distributions to the Virginia Thoroughbred Association but can absorb this responsibility within current resources.

(v) Contains an enactment clause requiring VRC to promulgate regulations to implement the provisions of the act that are effective within 280 days of enactment.

This bill makes technical amendments to the Code and requires VRC to promulgate regulations to implement the provisions of the bill.

Fiscal Impact: No impact from the technical amendments. Any workload for VRC associated with promulgating regulations in accordance with this bill is considered part of the agency's responsibilities and can be absorbed within current resources.

9. Specific Agency or Political Subdivisions Affected: Virginia Racing Commission.

10. Technical Amendment Necessary: Yes, Line 191, strike "2" and insert "3".

11. Other Comments: The bill could obligate more in distributions than would be available in retainage. See Item 8 for possible recommended amendment.

Date: March 4, 2011

c: Secretary of Commerce and Trade