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HOUSE BILL NO. 402**FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by Senator Norment
on March 3, 2014)

(Patron Prior to Substitute—Delegate Webert)

*A BILL to amend and reenact §§ 59.1-369 and 59.1-378.1 of the Code of Virginia, relating to the Virginia Racing Commission; simulcast of certain horse races.***Be it enacted by the General Assembly of Virginia:****1. That §§ 59.1-369 and 59.1-378.1 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 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 10 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 an entity for the operation of pari-mutuel wagering in the Commonwealth; except that the Commission shall not issue a license to, and shall revoke the license of, an entity that, either directly or through an entity under common control with it, withholds the sale at fair market value to an unlimited licensee of simulcast horse racing signals that such entity or an entity under common control with it sells to other racetracks, satellite facilities, or advance deposit account wagering providers located in or outside of the Commonwealth; (ii) provisions regarding access to books, records, and memoranda, and submission to investigations and audits, as

SENATE SUBSTITUTE

HB402S1

60 authorized by subdivisions 2 and 10 of this section; and (iii) provisions regarding the collection of all
61 revenues due to the Commonwealth from the placing of such wagers. No pari-mutuel wager may be
62 made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at
63 any public elementary or secondary school, or any public college or university. The Commission also
64 shall ensure that, except for this method of pari-mutuel wagering, all wagering on simulcast horse racing
65 shall take place only at a licensed horse racetrack or satellite facility.

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

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

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

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

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

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

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

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

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

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

109 14. The Commission shall require the existence of a contract between the licensee and the recognized
110 majority horseman's group providing for purses and prizes. Such contract shall be subject to the approval
111 of the Commission, which shall have the power to approve or disapprove any of its items, including but
112 not limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools
113 generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first \$75
114 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum
115 rate of five percent in the horsemen's purse account, (ii) for any amount in excess of \$75 million but
116 less than \$150 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at
117 the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in excess of \$150
118 million for each breed, the licensee shall deposit funds at the minimum rate of seven percent in the
119 horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts of the breed
120 that generated the pools and such deposits shall be made within five days from the date on which the
121 licensee receives wagers. *In the absence of a contract between the licensee and the recognized majority*

horseman's group, the Commission may permit wagering on simulcast horse racing to continue and require that the above statutory amounts designated for purses and prizes generated by wagering on simulcast horse racing from outside the Commonwealth be deposited into the State Racing Operations Fund within five days from the date on which the licensee receives wagers until a new approved contract has been executed by the licensee and the recognized majority horseman's group, at which time the Commission shall be authorized to transfer to the horsemen's purpose account from the State Racing Operations Fund the accrued statutory amounts designated for purses and prizes.

In the absence of the existence of the required contract between the licensee and the recognized majority horsemen's group, the Commission may permit wagering to proceed on simulcast horse racing from outside of the Commonwealth, provided that the licensee deposits an amount equal to the minimum percentage of the total pari-mutuel handle as cited in sub-paragraphs i, ii, and iii, or such lesser amounts as the Commission approves, into the State Racing Operations Fund. Such deposits shall be made within five days from the date on which the licensee receives the wagers. The Commission is authorized to transfer these funds from the State Racing Operations Fund to the horsemen's purse account after a contract between the licensee and the recognized majority horseman's group exists and has been approved by the Commission.

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

§ 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 facility for the purpose of conducting pari-mutuel wagering on (i) steeplechase race meetings and (ii) simulcast horse racing that is limited to the transmission from Churchill Downs of the Kentucky Derby horse race at that facility in conjunction with the steeplechase race meetings for a period not to exceed ~~fourteen~~ 14 days in any calendar year, provided that, prior to making application for such license, (i) (a) the steeplechase facility has been sanctioned by the Virginia Steeplechase Association or National Steeplechase Association and (ii) (b) the owner or operator of such facility has been granted tax-exempt status under § 501 (c) (3) or (4) of the Internal Revenue Code.

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~~ 12 licenses in a calendar year pursuant to this section.