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HOUSE BILL NO. 1934

Offered January 14, 2015

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A BILL to amend and reenact §§ 59.1-365 and 59.1-369 of the Code of Virginia, relating to the Virginia Racing Commission; advance deposit account wagering.

Patrons—Gilbert and Peace

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 59.1-365 and 59.1-369 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 *As used in this chapter, unless the context requires a different meaning:*

"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.

"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, 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.

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

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

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

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

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

71 *"Recognized majority horsemen's group" means the organization recognized by the Commission as*
72 *the representative of the majority of owners and trainers racing at race meetings subject to the*
73 *Commission's jurisdiction.*

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.).

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 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 of 1.5 percent paid to the Commission; (ii) an additional fee equal to ~~10~~ nine 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~~ 45 percent to a nonprofit industry stakeholder organization recognized by, and with oversight from, the Commission to include the recognized majority horsemen's groups, a breeder's organization, and a licensed track operator for the purpose of promoting, sustaining, and advancing horse racing within the Commonwealth and ; (b) ~~one-half~~ 55 percent to representatives of the recognized majority horsemen's groups by breed; 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. *The Commission-recognized nonprofit industry stakeholder organization shall make distributions from fees received from advance deposit wagering to organizations within the Commonwealth providing care for retired race horses and to the Virginia-Maryland Regional College of Veterinary Medicine, the Virginia Horse Center Foundation, the Virginia Horse Industry Board, and the Virginia Thoroughbred Association in the percentages of wagering handles set forth in subsections K and N of § 59.1-392. Any additional distribution of fees received from advance deposit account licensees by the Commission-recognized nonprofit industry stakeholder organization shall be approved by the Commission.*

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.

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

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

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

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

203 14. The Commission shall require the existence of a contract between the licensee and the recognized
204 majority ~~horseman's~~ *horsemen's* group providing for purses and prizes. Such contract shall be subject to
205 the approval of the Commission, which shall have the power to approve or disapprove any of its items,
206 including but not limited to the provisions regarding purses and prizes. Such contracts shall provide that
207 on pools generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the
208 first \$75 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the
209 minimum rate of five percent in the horsemen's purse account, (ii) for any amount in excess of \$75
210 million but less than \$150 million of the total pari-mutuel handle for each breed, the licensee shall
211 deposit funds at the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in
212 excess of \$150 million for each breed, the licensee shall deposit funds at the minimum rate of seven
213 percent in the horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts
214 of the breed that generated the pools and such deposits shall be made within five days from the date on
215 which the licensee receives wagers.

216 15. Notwithstanding the provisions of § 59.1-391, the Commission may grant provisional limited
217 licenses or provisional unlimited licenses to own or operate racetracks or satellite facilities to an
218 applicant prior to the applicant securing the approval through the local referendum required by
219 § 59.1-391. The provisional licenses issued by the Commission shall only become effective upon the
220 approval of the racetrack or satellite wagering facilities in a referendum conducted pursuant to
221 § 59.1-391 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.

222 **2. That an emergency exists and this act is in force from its passage.**

223 **3. That the Virginia Racing Commission shall revoke, in accordance with the provisions of**
224 **§ 59.1-385 of the Code of Virginia, the license of any person authorized to conduct advance deposit**
225 **account wagering found by the Commission to be in violation of any provision of Chapter 29 (§**
226 **59.1-364 et seq.) of Title 59.1 of the Code of Virginia or Commission regulations, which violation**
227 **occurred on or before January 1, 2015.**