

15103442D

SENATE BILL NO. 1313

Offered January 14, 2015

Prefiled January 14, 2015

A *BILL to amend and reenact §§ 59.1-365, 59.1-369, and 59.1-376 of the Code of Virginia, relating to the Virginia Racing Commission; significant infrastructure limited licensee.*

Patrons—Norment; Delegate: Peace

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-365, 59.1-369, and 59.1-376 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 or significant infrastructure 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,

INTRODUCED

SB1313

59 business, trust, association, or other legal entity.

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

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

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

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

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

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

78 *"Significant infrastructure facility" means a horse racing facility that has been approved by a local*
79 *referendum pursuant to § 59.1-391 and has a minimum racing infrastructure consisting of (i) a one-mile*
80 *dirt track, (ii) a seven-eighths-mile turf course, (iii) covered seating for no fewer than 1,000 persons,*
81 *and (iv) barns with no fewer than 900 permanent stalls.*

82 *"Significant infrastructure limited licensee" means a person who owns or operates a significant*
83 *infrastructure facility and holds a limited license under § 59.1-376.*

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

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

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

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

97 **§ 59.1-369. Powers and duties of the Commission.**

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

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

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

115 3. The Commission shall promulgate regulations and conditions under which horse racing with
116 pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems
117 necessary and appropriate to effect the purposes of this chapter, including a requirement that licensees
118 post, in a conspicuous place in every place where pari-mutuel wagering is conducted, a sign which bears
119 a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance
120 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 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:~~

a. For an advance deposit account wagering licensee that is owned by a significant infrastructure limited licensee, (i) a license fee of one-half of one percent of all wagers made within the Commonwealth placed through such advance deposit account wagering licensee paid to the Commission; (ii) an additional fee equal to 40 9.25 percent of all wagers made within the Commonwealth placed through an such advance deposit account wagering licensee, out of which shall be paid as follows: (a) one-half five percent to all unlimited licensees such significant infrastructure limited licensee to defray the cost of live racing and (b) one-half to representatives of the recognized majority horsemen groups 4.25 percent to such significant infrastructure limited licensee to be used exclusively for purse funds, which if generated by wagers on thoroughbreds shall be paid out as thoroughbred purses at not less than \$500,000 per race day at such significant infrastructure limited licensee's facility; and (iii) an additional fee equal to one percent of all wagers made within the Commonwealth placed through an such advance deposit account wagering licensee, which shall be paid to the Virginia Breeders Fund.

b. For an advance deposit account wagering licensee that is not a significant infrastructure limited licensee or owned by a significant infrastructure limited licensee, (i) a license fee of 1.5 percent of all wagers made within the Commonwealth placed through such advance deposit account wagering licensee paid to the Commission, (ii) an additional fee equal to nine percent of all wagers made within the Commonwealth placed through such advance deposit account wagering licensee out of which shall be paid the following amounts from the handle: (a) four percent to all significant infrastructure limited licensees to defray the costs of live racing operating expenses and (b) five percent to the Commission for purses to be used exclusively for purses funds. At least half of any amount generated by wagers on thoroughbreds shall be used by the Commission for thoroughbred purses to be paid out at not less than \$500,000 per race day conducted at a significant infrastructure facility.

All advance deposit account wagering licensees shall pay thirty-five one-hundredths of one percent of all wagers made within the Commonwealth placed through such advance deposit account wagering licensee to the locality or localities in which the significant infrastructure facility or facilities are located. The Commission shall allocate such funds in the event that a significant infrastructure facility

182 *or facilities are located in more than one locality.*

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

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

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

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

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

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

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

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

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

219 14. The Commission shall require the existence of a contract between the licensee and the recognized
220 majority horseman's group providing for purses and prizes. Such contract shall be subject to the approval
221 of the Commission, which shall have the power to approve or disapprove any of its items, including but
222 not limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools
223 generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first \$75
224 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum
225 rate of five percent in the horsemen's purse account, (ii) for any amount in excess of \$75 million but
226 less than \$150 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at
227 the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in excess of \$150
228 million for each breed, the licensee shall deposit funds at the minimum rate of seven percent in the
229 horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts of the breed
230 that generated the pools and such deposits shall be made within five days from the date on which the
231 licensee receives wagers. *In the absence of the required contract between the licensee and the*
232 *recognized majority horsemen's group, the Commission may permit wagering to proceed on simulcast*
233 *racing, provided that the licensee deposits the pari-mutuel retainage into the State Racing Operations*
234 *Fund created pursuant to § 59.1-370.1. Such deposits shall be made within five days from the date on*
235 *which the licensee receives wages.*

236 15. Notwithstanding the provisions of § 59.1-391, the Commission may grant provisional limited
237 licenses or provisional unlimited licenses to own or operate racetracks or satellite facilities to an
238 applicant prior to the applicant securing the approval through the local referendum required by
239 § 59.1-391. The provisional licenses issued by the Commission shall only become effective upon the
240 approval of the racetrack or satellite wagering facilities in a referendum conducted pursuant to
241 § 59.1-391 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.

242 **§ 59.1-376. Limited licenses; transfer of meet; taxation; authority to issue; limitations.**

243 A. Notwithstanding the provisions of § 59.1-375 or § 59.1-378 but subject to such regulations and

criteria as it may prescribe, the Commission is authorized to issue limited licenses, provided such licenses shall permit any holder to conduct a race meeting or meetings for a period not to exceed ~~fourteen~~ 14 days in any calendar year *or, in the case of a significant infrastructure limited licensee, 50 days in any calendar year.*

B. The Commission may at any time, in its discretion, authorize any organization or association licensed under this section to transfer its race meeting or meetings from its own track or place for holding races, to the track or place for holding races of any other organization or association licensed under this chapter upon the payment of any and all appropriate license fees. No such authority to transfer shall be granted without the express consent of the organization or association owning or leasing the track to which such transfer is made.

C. For any such meeting the licensee shall retain and pay from the pool the tax as provided in § 59.1-392.

D. No person to whom a limited license has been issued nor any officer, director, partner, or spouse or immediate family member thereof shall make any contribution to any candidate for public office or public office holder at the local or state level.