

# VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

## CHAPTER 511

*An Act to amend and reenact § 59.1-392 of the Code of Virginia, relating to horse racing tax.*

[H 574]

Approved April 11, 2022

**Be it enacted by the General Assembly of Virginia:**

**1. That § 59.1-392 of the Code of Virginia is amended and reenacted as follows:**

**§ 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 a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid one and one-quarter percent to be distributed as follows: one percent to the Commonwealth as a license tax and one-quarter percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection D, provided, however, that if the percentage amount approved by the Commission is other than 18 percent, the amounts provided in subdivisions D 1, 2 and 3 shall be adjusted by the proportion that the approved percentage amount bears to 18 percent.

C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid one and one-quarter percent 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 locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection D; provided, however, that if the percentage amount approved by the Commission is other than 18 percent, the amounts provided in subdivisions D 1, 2 and 3 shall be adjusted by the proportion that the approved percentage amount bears to 18 percent.

D. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid:

1. Eight percent as purses or prizes to the participants in such race meeting;
2. Seven and one-half percent, and all of the breakage and the proceeds of pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;
3. One percent to the Virginia Breeders Fund;
4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
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 retainage shall be paid as appropriate under subsection B or C.

E. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid two and three-quarters percent to be distributed as follows: two and one-quarter percent to the Commonwealth as a license tax, and one-half percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection G; provided, however, that if the percentage amount approved by the Commission is other than 22 percent, the amounts provided in subdivisions G 1, 2 and 3 shall be adjusted by the proportion that the approved percentage amount bears to 22 percent.

F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid two and three-quarters percent 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 locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection G; provided, however, that if the percentage amount approved by the Commission is other than 22 percent, the amounts provided in subdivisions G 1, 2 and 3 shall be adjusted by the proportion that the approved percentage amount bears to 22 percent.

G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid:

1. Nine percent as purses or prizes to the participants in such race meeting;
2. Nine percent, and the proceeds of the pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;
3. One percent to the Virginia Breeders Fund;
4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
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 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 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 thirty one-hundredths 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;
4. Five one-hundredths percent to the Virginia Horse Industry Board; and
5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of breeding in the Commonwealth.

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 thirty one-hundredths 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;
4. Five one-hundredths percent to the Virginia Horse Industry Board; and
5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of breeding in the Commonwealth.

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, the Virginia Horse Industry Board, and the Virginia Thoroughbred Association 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 remaining portion of the retainage under subsections I through N and ~~subsection~~ subsections U and V shall be subject to the approval of the Commission.

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

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

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

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

U. On pari-mutuel pools generated by wagering on historical horse racing *on the first 3,000 terminals authorized*, the licensee shall retain ~~one and one-quarter~~ 1.25 percent of such pool to be distributed as follows:

1. ~~Three-quarters~~ *Seventy-four hundredths* percent to the Commonwealth as a license tax *and 0.01 percent to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2;* and

2. a. If generated at a racetrack, ~~one-half~~ 0.5 percent to the locality in which the racetrack is located; or

b. If generated at a satellite facility, ~~one-quarter~~ 0.25 percent to the locality in which the satellite facility is located and ~~one-quarter~~ 0.25 percent to the Virginia locality in which the racetrack is located.

V. *On pari-mutuel pools generated by wagering on historical racing on the 2,000 terminals authorized by the seventh enactment of Chapters 1197 and 1248 of the Acts of Assembly of 2020, the licensee shall retain 1.6 percent of such pool to be distributed as follows:*

1. *Ninety-five hundredths percent to the Commonwealth as a license tax and 0.01 percent to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2; and*

2. a. *If generated at a racetrack, 0.64 percent to the locality in which the racetrack is located; or*

b. *If generated at a satellite facility, 0.32 percent to the locality in which the satellite facility is located and 0.32 percent to the Virginia locality in which the racetrack is located.*