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## HOUSE BILL NO. 1997

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend and reenact § 59.1-369 of the Code of Virginia, relating to Virginia Racing Commission; powers and duties; ratio of live racing days to number of historical horse racing terminals.*

Patrons—Krizek; Senator: Reeves

Referred to Committee on General Laws

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

**1. That § 59.1-369 of the Code of Virginia is 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 any person granted a permit by the Commission and shall require any person licensed by the Commission, the recognized majority horsemen's group, and the nonprofit industry stakeholder organization recognized by the Commission under this chapter to produce an annual balance sheet and operating statement prepared by a certified public accountant approved by the Commission. The Commission 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 a license to schedule no more than 125 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 that is a significant infrastructure limited licensee, or if by August 1, 2015, there is no such licensee or a pending application for such license, then the nonprofit industry stakeholder organization recognized by the Commission may be granted licenses to own or operate satellite facilities. If, however, after the issuance of a license to own or operate a satellite facility to such nonprofit industry stakeholder organization, the Commission grants a license to a significant infrastructure limited licensee pursuant to § 59.1-376, then such limited licensee may own or operate the remaining available satellite facilities

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59 authorized in accordance with this subdivision. In no event shall the Commission authorize any such  
60 entities to own or operate more than a combined total of 10 satellite facilities. Nothing in this  
61 subdivision shall be deemed to preclude private local ownership or participation in any satellite facility.  
62 Except as authorized pursuant to subdivision 5, wagering on simulcast horse racing shall take place only  
63 at a licensed horse racetrack or satellite facility.

64 5. The Commission shall promulgate regulations and conditions regulating and controlling advance  
65 deposit account wagering. Such regulations shall include, but not be limited to, (i) standards,  
66 qualifications, and procedures for the issuance of a license to an entity for the operation of pari-mutuel  
67 wagering in the Commonwealth; except that the Commission shall not issue a license to, and shall  
68 revoke the license of, an entity that, either directly or through an entity under common control with it,  
69 withholds the sale at fair market value to a licensee of simulcast horse racing signals that such entity or  
70 an entity under common control with it sells to other racetracks, satellite facilities, or advance deposit  
71 account wagering providers located in or outside of the Commonwealth; (ii) provisions regarding access  
72 to books, records, and memoranda, and submission to investigations and audits, as authorized by  
73 subdivisions 2 and 10; and (iii) provisions regarding the collection of all revenues due to the  
74 Commonwealth from the placing of such wagers. No pari-mutuel wager may be made on or with any  
75 computer owned or leased by the Commonwealth, or any of its subdivisions, or at any public elementary  
76 or secondary school or institution of higher education. The Commission also shall ensure that, except for  
77 this method of pari-mutuel wagering, all wagering on simulcast horse racing shall take place only at a  
78 licensed horse racetrack or satellite facility.

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

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

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

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

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

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

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

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

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

115 14. The Commission shall require the existence of a contract between each licensee and the  
116 recognized majority horsemen's group for that licensee. Such contract shall be subject to the approval of  
117 the Commission, which shall have the power to approve or disapprove any of its items, including but  
118 not limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools  
119 generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first \$75  
120 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum

rate of five percent in the horsemen's purse account, (ii) for any amount in excess of \$75 million but less than \$150 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in excess of \$150 million for each breed, the licensee shall deposit funds at the minimum rate of seven percent in the horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts of the breed that generated the pools and such deposits shall be made within five days from the date on which the licensee receives wagers. In the absence 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 into the State Racing Operations Fund created pursuant to § 59.1-370.1 an amount equal to the minimum percentage of the total pari-mutuel handles as required in clauses (i), (ii), and (iii) or such lesser amount as the Commission may approve. The deposits shall be made within five days from the date on which the licensee receives wagers. Once a contract between the licensee and the recognized majority horsemen's group is executed and approved by the Commission, the Commission shall transfer these funds to the licensee and the horsemen's purse accounts.

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.

16. *The Commission shall promulgate regulations requiring, for each calendar year, any significant infrastructure limited licensee that offers pari-mutuel wagering on historical horse racing to hold at least one live Thoroughbred horse racing day, consisting of not less than eight races per day, for every 100 historical horse racing terminals installed at its significant infrastructure facility together with any satellite facility owned, operated, controlled, managed, or otherwise directly or indirectly affiliated with such licensee.*