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HOUSE BILL NO. 590

Offered January 21, 1998

A BILL to amend and reenact §§ 59.1-365 and 59.1-392 of the Code of Virginia, relating to the Virginia Racing Commission; percentage retained.

Patrons—Shuler, Councill, Day, Deeds, Guest, Katzen, Landes, May, Mims, Putney and Wilkins;
Senators: Couric, Hanger, Hawkins, Holland, Houck and Marye

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 59.1-365 and 59.1-392 of the Code of Virginia are amended and reenacted as follows:**

§ 59.1-365. (Effective September 1, 1997) Definitions.

Unless another meaning is required by the context, the following words shall have the meanings prescribed by this section:

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten cents.

"Commission" means the Virginia Racing Commission.

"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.

"Horse racing" means a competition on a set course involving a race between horses on which pari-mutuel wagering is permitted.

"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, 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.

"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" includes a natural person, partnership, joint venture, association, or corporation.

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

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members, owns or controls, directly or indirectly, five percent or more of the stock of any person which is a licensee, or who in concert with his spouse and immediate family members, has the power to vote or cause the vote of five percent or more of any such stock.

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

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

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

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

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

"Stock" includes all classes of stock of an applicant or licensee corporation, and any debt or other obligation of such corporation or stockholder thereof or stock of an affiliated corporation if the Commission finds that the holder of such obligation or stock derives therefrom such control of or voice

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in the operation of the applicant or licensee corporation that he should be deemed a stockholder.

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

§ 59.1-392. Percentage retained; tax.

A. Any person holding an operator's license 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 an amount not to exceed eighteen percent of the *such* pool, and the legitimate breakage, out of which shall be paid:

1. a. If there are no satellite facilities, one and one-half percent of the pool to the Commonwealth as a license tax which shall be paid within five days to the Commonwealth;

b. If there are satellite facilities, one and one-quarter percent to be distributed as follows: one percent of the pool to the Commonwealth as a license tax which shall be paid within five days to the Commonwealth, and one-quarter percent of the pool shall be paid to the locality in which the satellite facility is located and one-quarter percent to the locality in which the ~~track~~ racetrack is located which shall be paid within five days to the locality. If any satellite facility is located in more than one locality, the license tax shall be prorated in equal shares among those localities. *The remainder of the eighteen percent retainage shall be paid as provided in subsection D.*

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 an amount not to exceed eighteen percent of such pool 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 eighteen percent retainage shall be paid as provided in subsection D.*

~~2. 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 an amount not to exceed eighteen percent of such pool and the legitimate breakage, out of which shall be paid:~~

1. Eight percent of the pool as purses or prizes to the participants in such race meeting;

~~3. 2. Seven and one-half percent of the pool, the breakage and the proceeds of pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator; and~~

4. 3. One percent of the pool to the Virginia Breeders Fund which shall be paid to the Commission within five days and shall be used in support of the policy of the Commonwealth to sustain and promote the growth of a native industry;

4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;

5. Five one-hundredths percent to the Virginia Equine Center Foundation;

6. Five one-hundredths percent to the Virginia Horse Industry Board; and

7. The remainder of the eighteen percent 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 that set forth in subsection B of this section win, place and show wagering, the licensee shall retain an amount not to exceed twenty-two percent of the *such* pool and the legitimate breakage, out of which shall be paid:

1. a. If there are no satellite facilities, three percent of the pool to the Commonwealth as a license tax which shall be paid within five days to the Commonwealth;

b. If there are satellite facilities, two and three-quarters percent to be distributed as follows: two and one-quarter percent of the pool to the Commonwealth as a license tax which shall be paid within five days to the Commonwealth, and one-half percent of the pool shall be paid to the locality in which the satellite facility is located and one-half percent to the locality in which the ~~track~~ racetrack is located which shall be paid within five days to the locality. If any satellite facility is located in more than one locality, the license tax shall be prorated in equal shares among those localities. *The remainder of the twenty-two percent retainage shall be paid as provided in subsection G.*

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 an amount not to exceed twenty-two percent of such pool 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 twenty-two percent retainage shall be paid as provided in subsection G.*

122 2. *G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite*
 123 *facility on live horse racing conducted within the Commonwealth involving wagering other than win,*
 124 *place and show wagering, the licensee shall retain an amount not to exceed twenty-two percent of such*
 125 *pool and the legitimate breakage, out of which shall be paid:*

- 126 1. Nine percent of the pool as purses or prizes to the participants in such race meeting;
- 127 3. 2. Nine percent of the pool, the breakage and the proceeds of the pari-mutuel tickets unredeemed
- 128 180 days from the date on which the race was conducted, to the operator; and
- 129 4. 3. One percent of the pool to the Virginia Breeders Fund which shall be paid to the Commission
- 130 within five days and shall be used in support of the policy of the Commonwealth to sustain and promote
- 131 the growth of a native industry;
- 132 4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 133 5. Five one-hundredths percent to the Virginia Equine Center Foundation;
- 134 6. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 135 7. The remainder of the twenty-two percent retainage shall be paid as appropriate under subsection
- 136 E or F.

137 D.H. On pari-mutuel wagering generated by simulcast horse racing transmitted from jurisdictions
 138 outside the Commonwealth, with the approval of the Commission the licensee may commingle pools
 139 with the racetrack where the transmission emanates or establish separate pools for wagering within the
 140 Commonwealth. All simulcast horse racing in this subsection must comply with the Interstate Horse
 141 Racing Act of 1978 (15 U.S.C. § 3001 et seq.).

142 E. 1. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing
 143 transmitted from jurisdictions outside the Commonwealth, involving win, place and show wagering, the
 144 licensee shall retain:

- 145 1. a. If there are no satellite facilities, one and one-half percent of the pool to the Commonwealth as
- 146 a license tax which shall be paid within five days to the Commonwealth;
- 147 b. If there are satellite facilities, one and one-quarter percent of such pool to be distributed as
- 148 follows: three-quarters percent of the pool to the Commonwealth as a license tax which shall be paid
- 149 within five days to the Commonwealth, and one-quarter percent of the pool to the locality in which the
- 150 satellite facility is located and one-quarter and one-half percent to the Virginia locality in which the
- 151 track racetrack is located which shall be paid within five days to the locality. If the satellite facility is
- 152 located in more than one locality, the license tax shall be prorated in equal shares among those
- 153 localities; and.

154 J. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse
 155 racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show
 156 wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as
 157 follows: three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the
 158 locality in which the satellite facility is located, and one-quarter percent to the Virginia locality in
 159 which the racetrack is located.

160 2. K. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite
 161 facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving
 162 win, place and show wagering, the licensee shall retain one and one-quarter percent of such pool to be
 163 distributed as follows:

- 164 1. One percent of the pool to the Virginia Breeders Fund which shall be paid to the Commission
- 165 within five days and shall be used in support of the policy of the Commonwealth to sustain and promote
- 166 the growth of a native industry;
- 167 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 168 3. Five one-hundredths percent to the Virginia Equine Center Foundation; and
- 169 4. Five one-hundredths percent to the Virginia Horse Industry Board.

170 Any contractual agreement between a licensee and other entities concerning the distribution of the
 171 remaining portion of the retainage is subject to the approval of the Commission.

172 F. L. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing
 173 transmitted from jurisdictions outside the Commonwealth, involving wagering other than that set forth in
 174 subsection E win, place and show wagering, the licensee shall retain:

- 175 1. a. If there are no satellite facilities, three percent of the pool to the Commonwealth as a license
- 176 tax which shall be paid within five days to the Commonwealth;
- 177 b. If there are satellite facilities, two and three-quarters percent of such pool to be distributed as
- 178 follows: one and three-quarters percent of the pool to the Commonwealth as a license tax which shall
- 179 be paid within five days to the Commonwealth, and one-half percent of the pool to the locality in which
- 180 the satellite facility is located and one-half one percent to the Virginia locality in which the track is
- 181 located which shall be paid within five days to the locality. If the satellite facility is located in more
- 182 than one locality, the license tax shall be prorated in equal shares among the localities; and.

183 *M. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse*
184 *racing transmitted from jurisdictions outside the Commonwealth, involving wagering other than win,*
185 *place and show wagering, the licensee shall retain two and three-quarters percent of such pool to be*
186 *distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, one-half*
187 *percent to the locality in which the satellite facility is located, and one-half percent to the Virginia*
188 *locality in which the racetrack is located.*

189 *2. N. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite*
190 *facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving*
191 *wagering other than win, place and show wagering, the licensee shall retain one and one-quarter*
192 *percent of such pool to be distributed as follows:*

193 *1. One percent of the pool to the Virginia Breeders Fund which shall be paid to the Commission*
194 *within five days and shall be used in support of the policy of the Commonwealth to sustain and promote*
195 *the growth of a native industry.*

196 *Any contractual agreement between a licensee and other entities concerning the distribution of the*
197 *remaining portion of the retainage is subject to the approval of the Commission.*

198 *2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;*

199 *3. Five one-hundredths percent to the Virginia Equine Center Foundation; and*

200 *4. Five one-hundredths percent to the Virginia Horse Industry Board.*

201 *G. O. Moneys payable to the Commonwealth shall be deposited in the general fund in accordance*
202 *with the provisions of § 59.1-370.1. Gross receipts for license tax purposes under Chapter 37*
203 *(§ 58.1-3700 et seq.) of Title 58.1 shall not include pari-mutuel wagering pools and license taxes*
204 *authorized by this section.*

205 *P. All payments by the licensee to the Commonwealth or any locality shall be made within five days*
206 *from the date on which such wagers are received by the licensee. All payments by the licensee to the*
207 *Virginia Breeders Fund shall be made to the Commission within five days from the date on which such*
208 *wagers are received by the licensee. All payments by the licensee to the Virginia-Maryland Regional*
209 *College of Veterinary Medicine, the Virginia Equine Center Foundation, and the Virginia Horse*
210 *Industry Board shall be made by the first day of each quarter of the calendar year. All payments made*
211 *under this section shall be used in support of the policy of the Commonwealth to sustain and promote*
212 *the growth of a native industry.*

213 *Q. If a satellite facility is located in more than one locality, any amount a licensee is required to pay*
214 *under this section to the locality in which the satellite facility is located shall be prorated in equal*
215 *shares among those localities.*

216 *R. Any contractual agreement between a licensee and other entities concerning the distribution of the*
217 *remaining portion of the retainage under subsections I through N shall be subject to the approval of the*
218 *Commission.*