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## HOUSE BILL NO. 1832

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on February 3, 2011)

(Patron Prior to Substitute—Delegate Scott, E.T.)

A BILL to amend and reenact §§ 18.2-326 and 59.1-392 of the Code of Virginia, relating to the Virginia Racing Commission; retainage; illegal wagering on horse racing; penalty.

**Be it enacted by the General Assembly of Virginia:****1. That §§ 18.2-326 and 59.1-392 of the Code of Virginia are amended and reenacted as follows:**

§ 18.2-326. Penalty for illegal gambling.

Except as otherwise provided in this article, any person who illegally gambles or engages in interstate gambling as defined in § 18.2-325 shall be guilty of a Class 3 misdemeanor. If an association or pool of persons illegally gamble, each person therein shall be guilty of illegal gambling.

However, if any person makes, places, or receives any bet or wager of money or other thing of value on a horse race in the Commonwealth, whether the race is inside or outside the limits of the Commonwealth at any place or through any means other than (i) at a racetrack licensed by the Virginia Racing Commission pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 or (ii) at a satellite facility or through advance deposit account wagering, as those terms are defined in § 59.1-365, licensed by the Virginia Racing Commission pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, such person shall be guilty of a Class 1 misdemeanor. For the purposes of this paragraph, venue shall be in any county or city in which any act was performed in furtherance of any course of conduct constituting illegal gambling.

§ 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 ~~an amount not to exceed eighteen percent of such pool~~ a percentage amount approved by the Commission as jointly requested by a recognized majority horseman's group and an unlimited 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 ~~eighteen percent~~ 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 subsection D 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 ~~an amount not to exceed eighteen percent of such pool~~ a percentage amount approved by the Commission as jointly requested by a recognized majority horseman's group and an unlimited 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 ~~eighteen percent~~ 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 subsection D 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 ~~an amount not to exceed eighteen percent of such pool~~ a percentage amount approved by the Commission as jointly requested by a recognized majority horseman's group and an unlimited 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

60 7. The remainder of the ~~eighteen percent~~ retainage shall be paid as appropriate under subsection B or  
61 C.

62 E. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted  
63 within the Commonwealth involving wagering other than win, place and show wagering, the licensee  
64 shall retain ~~an amount not to exceed twenty-two percent of such pool~~ *a percentage amount approved by*  
65 *the Commission as jointly requested by a recognized majority horseman's group and an unlimited*  
66 *licensee* and the legitimate breakage, out of which shall be paid two and three-quarters percent to be  
67 distributed as follows: two and one-quarter percent to the Commonwealth as a license tax, and one-half  
68 percent to the locality in which the racetrack is located. The remainder of the ~~twenty-two percent~~  
69 retainage shall be paid as provided in subsection G; *provided, however, that if the percentage amount*  
70 *approved by the Commission is other than 22 percent, the amounts provided in subsection D shall be*  
71 *adjusted by the proportion that the approved percentage amount bears to 22 percent.*

72 F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing  
73 conducted within the Commonwealth involving wagering other than win, place and show wagering, the  
74 licensee shall retain ~~an amount not to exceed twenty-two percent of such pool~~ *a percentage amount*  
75 *approved by the Commission as jointly requested by a recognized majority horseman's group and an*  
76 *unlimited licensee* and the legitimate breakage, out of which shall be paid two and three-quarters percent  
77 to be distributed as follows: one and three-quarters percent to the Commonwealth as a license tax,  
78 one-half percent to the locality in which the satellite facility is located, and one-half percent to the  
79 locality in which the racetrack is located. The remainder of the ~~twenty-two percent~~ retainage shall be  
80 paid as provided in subsection G; *provided, however, that if the percentage amount approved by the*  
81 *Commission is other than 22 percent, the amounts provided in subsection D shall be adjusted by the*  
82 *proportion that the approved percentage amount bears to 22 percent.*

83 G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on  
84 live horse racing conducted within the Commonwealth involving wagering other than win, place and  
85 show wagering, the licensee shall retain ~~an amount not to exceed twenty-two percent of such pool~~ *a*  
86 *percentage amount approved by the Commission as jointly requested by a recognized majority*  
87 *horseman's group and an unlimited licensee* and the legitimate breakage, out of which shall be paid:

- 88 1. Nine percent as purses or prizes to the participants in such race meeting;
- 89 2. Nine percent, and the proceeds of the pari-mutuel tickets unredeemed 180 days from the date on  
90 which the race was conducted, to the operator;
- 91 3. One percent to the Virginia Breeders Fund;
- 92 4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 93 5. Five one-hundredths percent to the Virginia Horse Center Foundation;
- 94 6. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 95 7. The remainder of the ~~twenty-two percent~~ retainage shall be paid as appropriate under subsection E

96 or F.

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

102 I. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted  
103 from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee  
104 shall retain one and one-quarter percent of such pool to be distributed as follows: three-quarters percent  
105 to the Commonwealth as a license tax, and one-half percent to the Virginia locality in which the  
106 racetrack is located.

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

113 K. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on  
114 simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place  
115 and show wagering, the licensee shall retain one and ~~one-quarter~~ *thirty one-hundredths* percent of such  
116 pool to be distributed as follows:

- 117 1. One percent of the pool to the Virginia Breeders Fund;
- 118 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 119 3. Five one-hundredths percent to the Virginia Horse Center Foundation; ~~and~~
- 120 4. Five one-hundredths percent to the Virginia Horse Industry Board; ~~and~~
- 121 5. *Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of*

122 *breeding in the Commonwealth.*

123 L. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted  
124 from jurisdictions outside the Commonwealth, involving wagering other than win, place and show  
125 wagering, the licensee shall retain two and three-quarters percent of such pool to be distributed as  
126 follows: one and three-quarters percent to the Commonwealth as a license tax, and one percent to the  
127 Virginia locality in which the racetrack is located.

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

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

- 138 1. One percent of the pool to the Virginia Breeders Fund;
- 139 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 140 3. Five one-hundredths percent to the Virginia Horse Center Foundation; ~~and~~
- 141 4. Five one-hundredths percent to the Virginia Horse Industry Board; *and*
- 142 5. *Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of*  
143 *breeding in the Commonwealth.*

144 O. Moneys payable to the Commonwealth shall be deposited in the general fund. Gross receipts for  
145 license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 shall not include pari-mutuel  
146 wagering pools and license taxes authorized by this section.

147 P. All payments by the licensee to the Commonwealth or any locality shall be made within five days  
148 from the date on which such wagers are received by the licensee. All payments by the licensee to the  
149 Virginia Breeders Fund shall be made to the Commission within five days from the date on which such  
150 wagers are received by the licensee. All payments by the licensee to the Virginia-Maryland Regional  
151 College of Veterinary Medicine, the Virginia Horse Center Foundation, ~~and~~ the Virginia Horse Industry  
152 Board, *and the Virginia Thoroughbred Association* shall be made by the first day of each quarter of the  
153 calendar year. All payments made under this section shall be used in support of the policy of the  
154 Commonwealth to sustain and promote the growth of a native industry.

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

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

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

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

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

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

173 **2. That the Virginia Racing Commission shall promulgate regulations to implement the provisions**  
174 **of this act to be effective within 280 days of its enactment.**