

Department of Planning and Budget 2011 Fiscal Impact Statement

1. Bill Number: SB1438

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Herring

3. Committee: General Laws and Technology

4. Title: Virginia Racing Commission; simulcast horse racing; allocations.

5. Summary: This bill adds historical horse racing, or instant racing, to the types of horse racing on which pari-mutuel wagering is permitted in Virginia. Historical racing would be limited to a racetrack or satellite wagering facility (off-track betting) licensed in Virginia as of January 1, 2011. Proceeds from the wagering, after the payment of prizes, would be split between the Commonwealth (the Virginia Tourism Corporation and the Transportation Trust Fund), the locality in which the racetrack or satellite wagering facility is located, the licensee, the horsemen's purse account, the Virginia Breeders Fund, the Virginia-Maryland Regional College of Veterinary Medicine, the Virginia Racing Commission (VRC), the Virginia Horse Industry Board, and the Virginia Equine Center Foundation. . The bill also contains enactment clauses that: (i) direct the entity licensed by VRC that owns a horse racetrack in the Commonwealth to provide gambling addiction programs and to publicize the existence of such programs, which must be approved by VRC, and (ii) require VRC to promulgate emergency regulations within 280 days of the enactment of the bill. Finally, the bill makes several technical changes to the Code language in this section

6. Fiscal Impact Estimates: Indeterminate. See item 8, below.

7. Budget Amendment Necessary: Yes, see item 8, below. Changes necessary to the front page and Items 118, 119, 120 and 452 of HB1500/SB800. Any additional funding for VRC's regulatory functions will need to be appropriated to Item 119; additional funding for the Breeders Fund under the provisions of this bill will need to be appropriated to Item 118.

8. Fiscal Implications: Instant horse racing consists of a database of previously run horse races that are sent electronically to terminals at which bets can be placed on the races. Under this bill, these terminals could be installed at any of the state's allotted ten satellite wagering facilities and one currently operating racetrack. The races are anonymous; the real names of the horses, the date, and place of the race they are betting on, are all hidden and the races are replayed at individual terminals when players choose to rerun them. Players have the option of watching the entire race, or just the final few seconds. Like bets on live races, the wagers are pari-mutuel, meaning that the winnings that are paid out fluctuate according to the number of people participating in the pool and how much they bet.

Proceeds from existing racing programs in the Commonwealth (live racing and simulcast racing), apart from payment of prizes to winning wagers, are distributed to: the participants in the race meet, the locality in which the satellite facility or race track is located, the licensee, the Commonwealth, the Virginia Breeders Fund, the Virginia-Maryland Regional College of Veterinary Medicine, the Virginia Equine Center Foundation, and the Virginia Horse Industry Board.

Proceeds from instant racing would be distributed differently. The bill provides for payment for all prizes to winning wagers first; the balance would be distributed as follows:

- 42 percent to the Commonwealth Transportation Fund for highway construction and other transportation related purposes;
- 1.5 percent to the Virginia localities where the racetrack or satellite facility is located;
- 2 percent to the Virginia Tourism Corporation (VTC) for the marketing of tourism in Virginia;
- 45 percent to the licensee;
- 6 percent (up to \$30 million in a calendar year) aggregate to the thoroughbred horsemen's purse account and standardbred horsemen's purse account; specific amounts allocated to each are to be determined by VRC;
- 2 percent to the Virginia Breeders Fund (Note: Any sum in excess of \$30 million would go to the Commonwealth Transportation Fund);
- 0.5 percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 0.5 percent to VRC;
- 0.25 percent to the Virginia Horse Industry Board; and
- 0.25 percent to the Virginia Equine Center Foundation.

In addition, the licensee would receive any proceeds from unredeemed winning tickets and breakage (the rounding of payout prices).

The amount of revenue instant racing might generate for the Commonwealth is indeterminate. It would depend on the number of instant racing machines the market can support, and on the allocation of those machines around the state. In September 2006, at the request of the racetrack in New Kent Virginia, a "Virginia Statewide Instant Racing Gaming Market Analysis" was prepared by The Innovation Group. The results of this study anticipated a maximum level the market would support at the time to be 10,000 machines, and mapped the most advantageous distribution of these 10,000 machines among eleven sites in Virginia (the racetrack at Colonial Downs, nine satellite wagering facilities, and an at-the-time-proposed facility in Westmoreland County).

This study estimated the potential profit to be generated per machine. If fully implemented, the study anticipated approximately \$660 million could be available for distribution between the localities where the racetrack or satellite facility is located, the VTC, and the Commonwealth Transportation Fund; the licensee; and the horsemen's purse fund. This fiscal impact assumes that anticipated maximum of 10,000 instant racing terminals would operate 365 days a year and be spread among the selected 11 locations in Virginia. With maximum revenue of \$660 million,

divided among 10,000 machines and operating 365 days a year, the daily net win per terminal would be \$181 per day.

However, since that time, new data shows that actual revenue generated by instant racing machines may be less than the 2006 study estimated. Recent data (October 2009) from revenue generated from a similar instant racing program in Arkansas, shows a win per terminal at only \$143 per day. Accordingly, the Virginia Racing Commission (VRC) estimates that the market and satellite wagering facilities in Virginia may only be able to absorb a total of 1,500 machines.

These machines would be spread among the current ten satellite wagering facilities in Virginia, and the racetrack in New Kent, Virginia. At a return of \$143 per machine for 1,500 machines, for 365 days, the estimated revenue available for distribution from this bill may be approximately **\$78,292,500.**

Several factors may result in a revenue generation less than what the study projected in 2006. First, VRC reports a significant drop in wagers in fiscal years 2009, 2010, and 2011 for live races; this decrease in live-horse wagering may translate to a lessened interest in instant racing. Second, within the last two years, surrounding states have increased their options of available alternative gaming. Maryland recently legalized slot machines and now has two locations in operation with more on the way, West Virginia and Pennsylvania already had slots and recently allowed casino table games, and Delaware previously allowed slots and now offers legalized sports wagering; all of which VRC anticipates may impact the number of both in- and out-of-state citizens that would participate in instant horse racing in Virginia.

Based on projections from VRC (assumes 1,500 machines among the ten locations, open 365 days a year), the approximate distribution of net revenue would be as follows:

- \$32.9 million to the Transportation Trust Fund;
- \$1.2 million to the localities;
- \$1.6 million to the Virginia Tourism Corporation;
- \$35.2 million to the licensee; and
- \$ 4.7 million aggregate to the thoroughbred horsemen's purse account and standardbred horsemen's purse account;
- \$1.6 million to the Virginia Breeders Fund;
- \$390,000 to the Virginia-Maryland Regional College of Veterinary Medicine;
- \$390,000 to VRC;
- \$195,000 to the Virginia Horse Industry Board; and
- \$195,000 to the Virginia Equine Center Foundation.

VRC estimates that the bill will have an expenditure impact to the agency of approximately \$240,000 annually (1,500 machines located at the racetrack and throughout the Commonwealth at ten satellite facilities). This assumes three additional positions that would be required to audit and oversee the systems. In addition, the legislation requires that VRC promulgate regulations within 280 days of enactment. VRC will need to develop these regulations to govern instant racing. As such, VRC estimates that time will be needed for the program to be fully implemented in the Commonwealth. No machines could be installed until the regulations are promulgated, which would delay any potential revenue to the state. The bill is silent regarding

any additional funding source for VRC's additional regulatory and administrative expenses. Currently, VRC gets 1.5 percent of all wagering done at the racetrack and satellite wagering facilities, and 0.5 percent of advanced-deposit wagering.

9. Specific Agency or Political Subdivisions Affected: Affected localities in the Commonwealth, the Virginia Racing Commission, and the Transportation Trust Fund.

10. Technical Amendment Necessary: Yes; Line 239: no apostrophe in Virginia Breeders Fund., and Line 246: there is an extra space after "July 1, 2011."

11. Other Comments: This bill as written may be interpreted as prohibiting any future racetracks that begin operations in Virginia from being authorized to support any historical racing operations.

Date: January 26, 2011

c: Secretary of Commerce and Trade