

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to amend and reenact §§ 59.1-365, 59.1-369, 59.1-376, 59.1-378, 59.1-378.1, and 59.1-392 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 59.1-392.1, relating to the Virginia Racing Commission; powers.

[H 1826]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 59.1-365, 59.1-369, 59.1-376, 59.1-378, 59.1-378.1, and 59.1-392 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 59.1-392.1 as follows:

- § 59.1-365. Definitions.**
 Unless another meaning is required by *As used in this chapter, unless the context, the following words shall have the meanings prescribed by this section requires a different meaning:*
- "Advance deposit account wagering" means a method of pari-mutuel wagering conducted in the Commonwealth that is permissible under the Interstate Horseracing Act, § 3001 et seq. of Chapter 57 of Title 15 of the United States Code, and in which an individual may establish an account with an entity, licensed by the Commission, to place pari-mutuel wagers in person or electronically.
 - "Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of \$0.10.
 - "Commission" means the Virginia Racing Commission.
 - "Dependent" means a son, daughter, father, mother, brother, sister, or other person, whether or not related by blood or marriage, if such person receives from an officer or employee more than one-half of his financial support.
 - "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.
 - "Handle" means the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.
 - "Horse racing" means a competition on a set course involving a race between horses on which pari-mutuel wagering is permitted.
 - "Immediate family" means (i) a spouse and (ii) any other person residing in the same household as an officer or employee, who is a dependent of the officer or employee or of whom the officer or employee is a dependent.
 - "Licensee" includes any person holding an owner's, or operator's ~~or limited~~ license under §§ *Article 2* (§ 59.1-375 through 59.1-386 of this chapter et seq.). ~~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, plus any amounts provided by ~~an unlimited~~ a licensee, 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.
 - "Participant" means any person who (i) has an ownership interest in any horse entered to race in the Commonwealth or who acts as the trainer, jockey, or driver of any horse entered to race in the Commonwealth or (ii) takes part in any horse racing subject to the jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering there, including but not limited to a horse owner, trainer, jockey, or driver, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee, concessionaire or employee thereof, track employee, or other position the Commission deems necessary to regulate to ensure the integrity of horse racing in Virginia.
 - "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" means any individual, group of individuals, firm, company, corporation, partnership,

57 business, trust, association, or other legal entity.

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

59 "Principal stockholder" means any person who individually or in concert with his spouse and
60 immediate family members, beneficially owns or controls, directly or indirectly, five percent or more of
61 the stock of any person which is a licensee, or who in concert with his spouse and immediate family
62 members, has the power to vote or cause the vote of five percent or more of any such stock. However,
63 "principal stockholder" shall not include a broker-dealer registered under the Securities Exchange Act of
64 1934, as amended, which holds in inventory shares for sale on the financial markets for a publicly
65 traded corporation holding, directly or indirectly, a license from the Commission.

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

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

70 "*Recognized majority horsemen's group*" means the organization recognized by the Commission as
71 the representative of the majority of owners and trainers racing at race meetings subject to the
72 Commission's jurisdiction.

73 "Retainage" means the total amount deducted from the pari-mutuel wagering pool for (i) a license fee
74 to the Commission and localities, (ii) the ~~unlimited license licensee~~, (iii) purse money for the
75 participants, (iv) the Virginia Breeders Fund, and (v) certain enumerated organizations as required or
76 permitted by law, regulation or contract approved by the Commission.

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

79 "*Significant infrastructure facility*" means a horse racing facility that has been approved by a local
80 referendum pursuant to § 59.1-391 and has a minimum racing infrastructure consisting of (i) a one-mile
81 dirt track for flat racing, (ii) a seven-eighths-mile turf course for flat or jump racing, (iii) covered
82 seating for no fewer than 500 persons, and (iv) barns with no fewer than 400 permanent stalls.

83 "*Significant infrastructure limited licensee*" means a person who owns or operates a significant
84 infrastructure facility and holds a limited license under § 59.1-376.

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

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

92 "Stock" includes all classes of stock, partnership interest, membership interest, or similar ownership
93 interest of an applicant or licensee, and any debt or other obligation of such person or an affiliated
94 person if the Commission finds that the holder of such interest or stock derives therefrom such control
95 of or voice in the operation of the applicant or licensee that he should be deemed an owner of stock.

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

98 **§ 59.1-369. Powers and duties of the Commission.**

99 The Commission shall have all powers and duties necessary to carry out the provisions of this
100 chapter and to exercise the control of horse racing as set forth in § 59.1-364. Such powers and duties
101 shall include but not be limited to the following:

102 1. The Commission is vested with jurisdiction and supervision over all horse racing licensed under
103 the provisions of this chapter including all persons conducting, participating in, or attending any race
104 meeting. It shall employ such persons to be present at race meetings as are necessary to ensure that they
105 are conducted with order and the highest degree of integrity. It may eject or exclude from the enclosure
106 or from any part thereof any person, whether or not he possesses a license or permit, whose conduct or
107 reputation is such that his presence may, in the opinion of the Commission, reflect on the honesty and
108 integrity of horse racing or interfere with the orderly conduct of horse racing.

109 2. The Commission, its representatives, and employees shall visit, investigate, and have free access to
110 the office, track, facilities, satellite facilities or other places of business of any license or permit holder,
111 and may compel the production of any of the books, documents, records, or memoranda of any license
112 or permit holder for the purpose of satisfying itself that this chapter and its regulations are strictly
113 complied with. In addition, the Commission may require ~~the production of any person granted a permit~~
114 *by the Commission and shall require any person licensed by the Commission, the recognized majority*
115 *horsemen's group, and the nonprofit industry stakeholder organization recognized by the Commission*
116 *under this chapter to produce an annual balance sheet and operating statement of any person licensed or*
117 *granted a permit pursuant to the provisions of this chapter and prepared by a certified public accountant*

118 approved by the Commission. The Commission may require the production of any contract to which such
119 person is or may be a party.

120 3. The Commission shall promulgate regulations and conditions under which horse racing with
121 pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems
122 necessary and appropriate to effect the purposes of this chapter, including a requirement that licensees
123 post, in a conspicuous place in every place where pari-mutuel wagering is conducted, a sign which bears
124 a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance
125 to compulsive gamblers. Such regulations shall include provisions for affirmative action to assure
126 participation by minority persons in contracts granted by the Commission and its licensees. Nothing in
127 this subdivision shall be deemed to preclude private local ownership or participation in any horse
128 racetrack. Such regulations may include penalties for violations. The regulations shall be subject to the
129 Administrative Process Act (§ 2.2-4000 et seq.).

130 4. The Commission shall promulgate regulations and conditions under which simulcast horse racing
131 shall be conducted at a licensed horse racetrack or satellite facility in the Commonwealth and all such
132 other regulations it deems necessary and appropriate to effect the purposes of this chapter. Such
133 regulations shall include provisions that all simulcast horse racing shall comply with the Interstate Horse
134 Racing Act of 1978 (15 U.S.C. § 3001 et seq.) and shall require the holder of an ~~unlimited~~ a license to
135 schedule ~~not less no more than 150~~ 125 live racing days in the Commonwealth each calendar year;
136 however, the Commission shall have the authority to alter the required number of live racing days based
137 on what the Commission deems to be in the best interest of the Virginia horse industry. Such
138 regulations shall authorize up to 10 satellite facilities and restrict majority ownership of satellite facilities
139 to an entity licensed by the Commission ~~which owns a horse racetrack in the Commonwealth that is a~~
140 ~~significant infrastructure limited licensee~~. Nothing in this subdivision shall be deemed to preclude
141 private local ownership or participation in any satellite facility. Except as authorized pursuant to
142 subdivision 5, wagering on simulcast horse racing shall take place only at a licensed horse racetrack or
143 satellite facility.

144 5. The Commission shall promulgate regulations and conditions regulating and controlling advance
145 deposit account wagering. Such regulations shall include, but not be limited to, (i) standards,
146 qualifications, and procedures for the issuance of a license to an entity for the operation of pari-mutuel
147 wagering in the Commonwealth; except that the Commission shall not issue a license to, and shall
148 revoke the license of, an entity that, either directly or through an entity under common control with it,
149 withholds the sale at fair market value to an ~~unlimited~~ a licensee of simulcast horse racing signals that
150 such entity or an entity under common control with it sells to other racetracks, satellite facilities, or
151 advance deposit account wagering providers located in or outside of the Commonwealth; (ii) provisions
152 regarding access to books, records, and memoranda, and submission to investigations and audits, as
153 authorized by subdivisions 2 and 10 ~~of this section~~; and (iii) provisions regarding the collection of all
154 revenues due to the Commonwealth from the placing of such wagers. No pari-mutuel wager may be
155 made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at
156 any public elementary or secondary school, or any public college or university. The Commission also
157 shall ensure that, except for this method of pari-mutuel wagering, all wagering on simulcast horse racing
158 shall take place only at a licensed horse racetrack or satellite facility.

159 ~~Notwithstanding the provisions of § 59.1-392, the allocation of revenue from advance deposit account~~
160 ~~wagering shall include (i) a licensee fee paid to the Commission; (ii) an additional fee equal to 10~~
161 ~~percent of all wagers made within the Commonwealth placed through an advance deposit account~~
162 ~~wagering licensee, out of which shall be paid: (a) one-half to all unlimited licensees and (b) one-half to~~
163 ~~representatives of the recognized majority horsemen groups; and (iii) an additional fee equal to one~~
164 ~~percent of all wagers made within the Commonwealth placed through an advance deposit account~~
165 ~~wagering licensee, which shall be paid to the Virginia Breeders Fund.~~

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

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

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

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

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

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

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

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

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

202 14. The Commission shall require the existence of a contract between ~~the~~ *each* licensee and the
203 recognized majority ~~horseman's~~ *horsemen's* group ~~providing for purses and prizes for that licensee.~~ Such
204 contract shall be subject to the approval of the Commission, which shall have the power to approve or
205 disapprove any of its items, including but not limited to the provisions regarding purses and prizes. Such
206 contracts shall provide that on pools generated by wagering on simulcast horse racing from outside the
207 Commonwealth, (i) for the first \$75 million of the total pari-mutuel handle for each breed, the licensee
208 shall deposit funds at the minimum rate of five percent in the horsemen's purse account, (ii) for any
209 amount in excess of \$75 million but less than \$150 million of the total pari-mutuel handle for each
210 breed, the licensee shall deposit funds at the minimum rate of six percent in the horsemen's purse
211 account, (iii) for amounts in excess of \$150 million for each breed, the licensee shall deposit funds at
212 the minimum rate of seven percent in the horsemen's purse account. Such deposits shall be made in the
213 horsemen's purse accounts of the breed that generated the pools and such deposits shall be made within
214 five days from the date on which the licensee receives wagers. *In the absence of the required contract*
215 *between the licensee and the recognized majority horsemen's group, the Commission may permit*
216 *wagering to proceed on simulcast horse racing from outside of the Commonwealth, provided that the*
217 *licensee deposits into the State Racing Operations Fund created pursuant to § 59.1-370.1 an amount*
218 *equal to the minimum percentage of the total pari-mutuel handles as required in clauses (i), (ii), and*
219 *(iii) or such lesser amount as the Commission may approve. The deposits shall be made within five days*
220 *from the date on which the licensee receives wagers. Once a contract between the licensee and the*
221 *recognized majority horsemen's group is executed and approved by the Commission, the Commission*
222 *shall transfer these funds to the licensee and the horsemen's purse accounts.*

223 15. Notwithstanding the provisions of § 59.1-391, the Commission may grant provisional limited
224 licenses or provisional unlimited licenses to own or operate racetracks or satellite facilities to an
225 applicant prior to the applicant securing the approval through the local referendum required by
226 § 59.1-391. The provisional licenses issued by the Commission shall only become effective upon the
227 approval of the racetrack or satellite wagering facilities in a referendum conducted pursuant to
228 § 59.1-391 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.

229 **§ 59.1-376. Limited licenses; transfer of meet; taxation; authority to issue; limitations.**

230 A. Notwithstanding the provisions of § 59.1-375 or § 59.1-378 but subject to such regulations and
231 criteria as it may prescribe, the Commission is authorized to issue limited licenses, provided such
232 licenses shall permit any holder to conduct a race meeting or meetings for a period not to exceed
233 ~~fourteen~~ 14 days in any calendar year, *or in the case of a significant infrastructure limited licensee, 75*
234 *days in any calendar year.*

235 B. The Commission may at any time, in its discretion, authorize any organization or association
236 licensed under this section to transfer its race meeting or meetings from its own track or place for
237 holding races, to the track or place for holding races of any other organization or association licensed
238 under this chapter upon the payment of any and all appropriate license fees. No such authority to
239 transfer shall be granted without the express consent of the organization or association owning or leasing

240 the track to which such transfer is made.

241 C. For any such meeting the licensee shall retain and pay from the pool the tax as provided in
242 § 59.1-392.

243 D. No person to whom a limited license has been issued nor any officer, director, partner, or spouse
244 or immediate family member thereof shall make any contribution to any candidate for public office or
245 public office holder at the local or state level.

246 **§ 59.1-378. Issuance of owner's license.**

247 A. The Commission shall consider all applications for an owner's license and may grant a valid
248 owner's license to applicants who meet the criteria set forth in this chapter and established by the
249 Commission. The Commission shall deny a license to any applicant, unless it finds that the applicant's
250 facilities are or will be appropriate for the finest quality of racing, and meet or will meet the minimum
251 standards that any track provided for standard breed racing be at least five-eighths of a mile, that any
252 dirt track provided for flat racing be at least one mile, and that any track provided for flat or jump
253 racing on the turf be at least seven-eighths of a mile.

254 B. The Commission shall deny a license to an applicant if it finds that for any reason the issuance of
255 a license to the applicant would not be in the interest of the people of the Commonwealth or the horse
256 racing industry in the Commonwealth, or would reflect adversely on the honesty and integrity of the
257 horse racing industry in the Commonwealth, or that the applicant, or any officer, partner, principal
258 stockholder, or director of the applicant:

259 1. Has knowingly made a false statement of material fact or has deliberately failed to disclose any
260 information requested;

261 2. Is or has been found guilty of any illegal, corrupt, or fraudulent act, practice, or conduct in
262 connection with any horse racing in this or any other state, or has been convicted of a felony;

263 3. Has at any time knowingly failed to comply with the provisions of this chapter or of any
264 regulations of the Commission;

265 4. Has had a license or permit to hold or conduct a horse race meeting denied for just cause,
266 suspended, or revoked in any other state or country;

267 5. Has legally defaulted in the payment of any obligation or debt due to the Commonwealth;

268 6. Has constructed or caused to be constructed a racetrack or satellite facility for which a license was
269 required under § 59.1-377 hereof without obtaining such license, or has deviated substantially, without
270 the permission of the Commission, from the plans and specifications submitted to the Commission; or

271 7. Is not qualified to do business in Virginia or is not subject to the jurisdiction of the courts of this
272 Commonwealth.

273 C. The Commission shall deny a license to any applicant unless it finds:

274 1. That, if the corporation is a stock corporation, that such stock is fully paid and nonassessable, has
275 been subscribed and paid for only in cash or property to the exclusion of past services, and, if the
276 corporation is a nonstock corporation, that there are at least twenty members;

277 2. That all principal stockholders or members have submitted to the jurisdiction of the Virginia
278 courts, and all nonresident principal stockholders or members have designated the Executive Secretary of
279 the Commission as their agent for receipt of process;

280 3. That the applicant's articles of incorporation provide that the corporation may, on vote of a
281 majority of the stockholders or members, purchase at fair market value the entire membership interest of
282 any stockholder or require the resignation of any member who is or becomes unqualified for such
283 position under § 59.1-379; and

284 4. That the applicant meets the criteria established by the Commission for the granting of an owner's
285 license.

286 **§ 59.1-378.1. Licensing of owners or operators of certain pari-mutuel facilities.**

287 A. Notwithstanding the provisions of § 59.1-391, the Commission may grant a license, for a duration
288 to be determined by the Commission, to the owner or operator of a ~~steeplechase~~ facility for the purpose
289 of conducting pari-mutuel wagering on (i) ~~steeplechase thoroughbred and standard bred~~ race meetings
290 and (ii) simulcast horse racing that is limited to the transmission from Churchill Downs of the Kentucky
291 Derby horse race at that facility in conjunction with the steeplechase race meetings for a period not to
292 exceed 14 days in any calendar year, provided that, prior to making application for such license, (a) the
293 steeplechase facility has been sanctioned by the Virginia Steeplechase Association or National
294 Steeplechase Association approved by the Commission and (b) the owner or operator of such facility has
295 been granted tax-exempt status under § 501(c)(3) or (4) of the Internal Revenue Code.

296 For purposes of this section, "steeplechase facility" means a turf racecourse constructed over natural
297 ground which is utilized primarily for races where horses jump over fences.

298 B. In deciding whether to grant any license pursuant to this section, the Commission shall consider
299 (i) the results of, circumstances surrounding, and issues involved in any referendum conducted under the
300 provisions of § 59.1-391 and (ii) whether the Commission had previously granted a license to such

301 facility, owner, or operator.

302 C. In no event shall the Commission issue more than 12 licenses in a calendar year pursuant to this
303 section.

304 **§ 59.1-392. Percentage retained; tax.**

305 A. Any person holding an operator's license to operate a horse racetrack or satellite facility in the
306 Commonwealth pursuant to this chapter shall be authorized to conduct pari-mutuel wagering on horse
307 racing subject to the provisions of this chapter and the conditions and regulations of the Commission.

308 B. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted
309 within the Commonwealth, involving win, place and show wagering, the licensee shall retain a
310 percentage amount approved by the Commission as jointly requested by a recognized majority
311 horseman's horsemen's group and an unlimited a licensee and the legitimate breakage, out of which shall
312 be paid one and one-quarter percent to be distributed as follows: one percent to the Commonwealth as a
313 license tax and one-quarter percent to the locality in which the racetrack is located. The remainder of
314 the retainage shall be paid as provided in subsection D; provided, however, that if the percentage
315 amount approved by the Commission is other than 18 percent, the amounts provided in subdivisions D
316 1, 2 and 3 shall be adjusted by the proportion that the approved percentage amount bears to 18 percent.

317 C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing
318 conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain
319 a percentage amount approved by the Commission as jointly requested by a recognized majority
320 horseman's horsemen's group and an unlimited a licensee and the legitimate breakage, out of which shall
321 be paid one and one-quarter percent to be distributed as follows: three-quarters percent to the
322 Commonwealth as a license tax, one-quarter percent to the locality in which the satellite facility is
323 located, and one-quarter percent to the locality in which the racetrack is located. The remainder of the
324 retainage shall be paid as provided in subsection D; provided, however, that if the percentage amount
325 approved by the Commission is other than 18 percent, the amounts provided in subdivisions D 1, 2 and
326 3 shall be adjusted by the proportion that the approved percentage amount bears to 18 percent.

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

- 332 1. Eight percent as purses or prizes to the participants in such race meeting;
- 333 2. Seven and one-half percent, and all of the breakage and the proceeds of pari-mutuel tickets
334 unredeemed 180 days from the date on which the race was conducted, to the operator;
- 335 3. One percent to the Virginia Breeders Fund;
- 336 4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 337 5. Five one-hundredths percent to the Virginia Horse Center Foundation;
- 338 6. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 339 7. The remainder of the retainage shall be paid as appropriate under subsection B or C.

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

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

361 G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on

362 live horse racing conducted within the Commonwealth involving wagering other than win, place and
 363 show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly
 364 requested by a recognized majority horseman's horsemen's group and an unlimited a licensee and the
 365 legitimate breakage, out of which shall be paid:

- 366 1. Nine percent as purses or prizes to the participants in such race meeting;
- 367 2. Nine percent, and the proceeds of the pari-mutuel tickets unredeemed 180 days from the date on
 368 which the race was conducted, to the operator;
- 369 3. One percent to the Virginia Breeders Fund;
- 370 4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 371 5. Five one-hundredths percent to the Virginia Horse Center Foundation;
- 372 6. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 373 7. The remainder of the retainage shall be paid as appropriate under subsection E or F.

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

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

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

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

- 394 1. One percent of the pool to the Virginia Breeders Fund;
- 395 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 396 3. Five one-hundredths percent to the Virginia Horse Center Foundation;
- 397 4. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 398 5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of
 399 breeding in the Commonwealth.

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

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

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

- 415 1. One percent of the pool to the Virginia Breeders Fund;
- 416 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 417 3. Five one-hundredths percent to the Virginia Horse Center Foundation;
- 418 4. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 419 5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of
 420 breeding in the Commonwealth.

421 O. Moneys payable to the Commonwealth shall be deposited in the general fund. Gross receipts for
 422 license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 shall not include pari-mutuel

423 wagering pools and license taxes authorized by this section.

424 P. All payments by the licensee to the Commonwealth or any locality shall be made within five days
425 from the date on which such wagers are received by the licensee. All payments by the licensee to the
426 Virginia Breeders Fund shall be made to the Commission within five days from the date on which such
427 wagers are received by the licensee. All payments by the licensee to the Virginia-Maryland Regional
428 College of Veterinary Medicine, the Virginia Horse Center Foundation, the Virginia Horse Industry
429 Board, and the Virginia Thoroughbred Association shall be made by the first day of each quarter of the
430 calendar year. All payments made under this section shall be used in support of the policy of the
431 Commonwealth to sustain and promote the growth of a native industry.

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

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

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

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

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

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

451 **§ 59.1-392.1. Advance deposit account wagering revenues; distribution.**

452 A. *Notwithstanding the provisions of § 59.1-392, the allocation of revenue from advance deposit*
453 *account wagering shall include (i) a licensee fee of 1.5 percent paid to the Commission; (ii) an*
454 *additional fee equal to one percent of all wagers made within the Commonwealth placed through an*
455 *advance deposit account wagering licensee, which shall be paid to the Virginia Breeders Fund, and (iii)*
456 *an additional fee equal to nine percent of all wagers made within the Commonwealth placed through an*
457 *advance deposit account wagering licensee, out of which shall be paid:*

458 1. *Four percent to a nonprofit industry stakeholder organization recognized by, and with oversight*
459 *from, the Commission to include the recognized majority horsemen's group, a breeder's organization,*
460 *and a licensed track operator for the purpose of promoting, sustaining, and advancing horse racing*
461 *within the Commonwealth; and*

462 2. *Five percent to representatives of the recognized majority horsemen's group by breed to be used*
463 *for purse funds at races conducted in the Commonwealth, unless otherwise authorized by the*
464 *Commission.*

465 *Notwithstanding the foregoing, if the advance deposit account wagering licensee is a significant*
466 *infrastructure limited licensee, the additional fee equal to nine percent of the wagers placed through*
467 *such advance deposit account wagering licensee since November 1, 2014, shall instead be retained by*
468 *such licensee for operational expenses, including defraying the costs of live racing.*

469 B. *The Commission-recognized nonprofit industry stakeholder organization shall make distributions*
470 *from fees received from advance deposit wagering to organizations within the Commonwealth providing*
471 *care for retired race horses, the Virginia-Maryland Regional College of Veterinary Medicine, the*
472 *Virginia Horse Center Foundation, the Virginia Horse Industry Board, and the Virginia Thoroughbred*
473 *Association in the percentages of wagering handles set forth in subsections K and N of § 59.1-392, and*
474 *shall make a distribution of thirty-five one-hundredths of one percent of all wagers made within the*
475 *Commonwealth placed through such advance deposit account wagering licensee to the locality where*
476 *live racing licensed by the Commission occurred prior to January 1, 2012, and beginning January 1,*
477 *2020, to the locality or localities where such live racing occurs to be shared in a ratio of the number of*
478 *such annual live races in a locality to the total number of such annual lives races in the*
479 *Commonwealth. Distributions under this section from the Commission-recognized nonprofit stakeholder*
480 *organization to the foregoing entities and locality or localities, when added to the distributions to such*
481 *entities and locality or localities under § 59.1.392, shall be capped at the sum necessary to equal*
482 *distributions made in the 2013 calendar year to each entity under § 59.1.392, and shall be capped at*
483 *the sum necessary to equal \$400,000 for a locality or localities.*

484 C. Any additional distribution of fees received from advance deposit account licensees by the
485 Commission-recognized nonprofit industry stakeholder organization shall be approved by the
486 Commission.

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