

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 59.1-365 and 59.1-392 of the Code of Virginia, relating to horse*
 3 *racing and pari-mutuel wagering.*

4 [H 1609]
 5 Approved

6 **Be it enacted by the General Assembly of Virginia:**
 7 **1. That §§ 59.1-365 and 59.1-392 of the Code of Virginia are amended and reenacted as follows:**
 8 **§ 59.1-365. Definitions.**

9 As used in this chapter, unless the context requires a different meaning:
 10 "Advance deposit account wagering" means a method of pari-mutuel wagering conducted in the
 11 Commonwealth that is permissible under the Interstate Horseracing Act, § 3001 et seq. of Chapter 57 of
 12 Title 15 of the United States Code, and in which an individual may establish an account with an entity,
 13 licensed by the Commission, to place pari-mutuel wagers in person or electronically.

14 "Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a
 15 multiple of \$0.10.

16 "Commission" means the Virginia Racing Commission.

17 "Dependent" means a son, daughter, father, mother, brother, sister, or other person, whether or not
 18 related by blood or marriage, if such person receives from an officer or employee more than one-half of
 19 his financial support.

20 "Drug" shall have the meaning prescribed by § 54.1-3401. The Commission shall by regulation
 21 define and designate those drugs the use of which is prohibited or restricted.

22 "Enclosure" means all areas of the property of a track to which admission can be obtained only by
 23 payment of an admission fee or upon presentation of authorized credentials, and any additional areas
 24 designated by the Commission.

25 "Handle" means the total amount of all pari-mutuel wagering sales excluding refunds and
 26 cancellations.

27 "*Historical horse racing*" means a form of horse racing that creates pari-mutuel pools from wagers
 28 placed on previously conducted horse races and is hosted at (i) a racetrack owned or operated by a
 29 significant infrastructure limited licensee or (ii) a satellite facility that is owned or operated by (a) a
 30 significant infrastructure limited licensee or (b) the nonprofit industry stakeholder organization
 31 recognized by the Commission and licensed to own or operate such satellite facility.

32 "Horse racing" means a competition on a set course involving a race between horses on which
 33 pari-mutuel wagering is permitted and includes historical horse racing.

34 "Immediate family" means (i) a spouse and (ii) any other person residing in the same household as
 35 an officer or employee, who is a dependent of the officer or employee or of whom the officer or
 36 employee is a dependent.

37 "Licensee" includes any person holding an owner's or operator's license under Article 2 (§ 59.1-375
 38 et seq.).

39 "Member" includes any person designated a member of a nonstock corporation, and any person who
 40 by means of a pecuniary or other interest in such corporation exercises the power of a member.

41 "Pari-mutuel wagering" means the system of wagering on horse races in which those who wager on
 42 horses that finish in the position or positions for which wagers are taken share in the total amounts
 43 wagered, plus any amounts provided by a licensee, less deductions required or permitted by law and
 44 includes pari-mutuel wagering on *historical horse racing* and simulcast horse racing originating within
 45 the Commonwealth or from any other jurisdiction.

46 "Participant" means any person who (i) has an ownership interest in any horse entered to race in the
 47 Commonwealth or who acts as the trainer, jockey, or driver of any horse entered to race in the
 48 Commonwealth or (ii) takes part in any horse racing subject to the jurisdiction of the Commission or in
 49 the conduct of a race meeting or pari-mutuel wagering there, including but not limited to a horse owner,
 50 trainer, jockey, or driver, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee,
 51 concessionaire or employee thereof, track employee, or other position the Commission deems necessary
 52 to regulate to ensure the integrity of horse racing in Virginia.

53 "Permit holder" includes any person holding a permit to participate in any horse racing subject to the
 54 jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering thereon as
 55 provided in § 59.1-387.

56 "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 licensee, (iii) purse money for the participants, (iv) the
75 Virginia Breeders Fund, and (v) certain enumerated organizations as required or permitted by law,
76 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 **§ 59.1-392. Percentage retained; tax.**

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

102 B. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted
103 within the Commonwealth, involving win, place and show wagering, the licensee shall retain a
104 percentage amount approved by the Commission as jointly requested by a recognized majority
105 horsemen's group and a licensee and the legitimate breakage, out of which shall be paid one and
106 one-quarter percent to be distributed as follows: one percent to the Commonwealth as a license tax and
107 one-quarter percent to the locality in which the racetrack is located. The remainder of the retainage shall
108 be paid as provided in subsection D, provided, however, that if the percentage amount approved by the
109 Commission is other than 18 percent, the amounts provided in subdivisions D 1, 2 and 3 shall be
110 adjusted by the proportion that the approved percentage amount bears to 18 percent.

111 C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing
112 conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain
113 a percentage amount approved by the Commission as jointly requested by a recognized majority
114 horsemen's group and a licensee and the legitimate breakage, out of which shall be paid one and
115 one-quarter percent to be distributed as follows: three-quarters percent to the Commonwealth as a license
116 tax, one-quarter percent to the locality in which the satellite facility is located, and one-quarter percent
117 to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided

118 in subsection D; provided, however, that if the percentage amount approved by the Commission is other
119 than 18 percent, the amounts provided in subdivisions D 1, 2 and 3 shall be adjusted by the proportion
120 that the approved percentage amount bears to 18 percent.

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

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

134 E. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted
135 within the Commonwealth involving wagering other than win, place and show wagering, the licensee
136 shall retain a percentage amount approved by the Commission as jointly requested by a recognized
137 majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid two
138 and three-quarters percent to be distributed as follows: two and one-quarter percent to the
139 Commonwealth as a license tax, and one-half percent to the locality in which the racetrack is located.
140 The remainder of the retainage shall be paid as provided in subsection G; provided, however, that if the
141 percentage amount approved by the Commission is other than 22 percent, the amounts provided in
142 subdivisions G 1, 2 and 3 shall be adjusted by the proportion that the approved percentage amount bears
143 to 22 percent.

144 F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing
145 conducted within the Commonwealth involving wagering other than win, place and show wagering, the
146 licensee shall retain a percentage amount approved by the Commission as jointly requested by a
147 recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be
148 paid two and three-quarters percent to be distributed as follows: one and three-quarters percent to the
149 Commonwealth as a license tax, one-half percent to the locality in which the satellite facility is located,
150 and one-half percent to the locality in which the racetrack is located. The remainder of the retainage
151 shall be paid as provided in subsection G; provided, however, that if the percentage amount approved by
152 the Commission is other than 22 percent, the amounts provided in subdivisions G 1, 2 and 3 shall be
153 adjusted by the proportion that the approved percentage amount bears to 22 percent.

154 G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
155 live horse racing conducted within the Commonwealth involving wagering other than win, place and
156 show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly
157 requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of
158 which shall be paid:

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

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

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

177 J. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse
178 racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show

179 wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows:
 180 three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality in which
 181 the satellite facility is located, and one-quarter percent to the Virginia locality in which the racetrack is
 182 located.

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

- 187 1. One percent of the pool to the Virginia Breeders Fund;
- 188 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 189 3. Five one-hundredths percent to the Virginia Horse Center Foundation;
- 190 4. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 191 5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of
 192 breeding in the Commonwealth.

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

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

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

- 208 1. One percent of the pool to the Virginia Breeders Fund;
- 209 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 210 3. Five one-hundredths percent to the Virginia Horse Center Foundation;
- 211 4. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 212 5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of
 213 breeding in the Commonwealth.

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

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

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

228 R. Any contractual agreement between a licensee and other entities concerning the distribution of the
 229 remaining portion of the retainage under subsections I through N *and subsection U* shall be subject to
 230 the approval of the Commission.

231 S. The recognized majority horsemen's group racing at a licensed race meeting may, subject to the
 232 approval of the Commission, withdraw for administrative costs associated with serving the interests of
 233 the horsemen an amount not to exceed two percent of the amount in the horsemen's account.

234 T. The legitimate breakage from each pari-mutuel pool for ~~both~~ *live, historical, and simulcast horse*
 235 *racing and simuleast horse racing* shall be distributed as follows:

- 236 1. Seventy percent to be retained by the licensee to be used for capital improvements that are subject
 237 to approval of the Commission; and
- 238 2. Thirty percent to be deposited in the Racing Benevolence Fund, administered jointly by the
 239 licensee and the recognized majority horsemen's group racing at a licensed race meeting, to be disbursed

240 with the approval of the Commission for gambling addiction and substance abuse counseling,
241 recreational, educational or other related programs.

242 *U. On pari-mutuel pools generated by wagering on historical horse racing, the licensee shall retain*
243 *one and one-quarter percent of such pool to be distributed as follows:*

244 *1. Three-quarters percent to the Commonwealth as a license tax; and*

245 *2. a. If generated at a racetrack, one-half percent to the locality in which the racetrack is located;*
246 *or*

247 *b. If generated at a satellite facility, one-quarter percent to the locality in which the satellite facility*
248 *is located and one-quarter percent to the Virginia locality in which the racetrack is located.*

249 **2. That the Virginia Racing Commission shall promulgate regulations to implement the provisions**
250 **of this act to be effective within 180 days of its enactment.**

ENROLLED

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