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SENATE BILL NO. 367

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact § 59.1-392 of the Code of Virginia, relating to horse racing tax.

Patrons—Reeves; Delegate: Krizek

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:**1. That § 59.1-392 of the Code of Virginia is amended and reenacted as follows:****§ 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 a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a 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 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 subdivisions D 1, 2 and 3 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 a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a 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 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 subdivisions D 1, 2 and 3 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 a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a 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
7. The remainder of the retainage shall be paid as appropriate under subsection B or C.

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

F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the

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59 licensee shall retain a percentage amount approved by the Commission as jointly requested by a
60 recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be
61 paid two and three-quarters percent to be distributed as follows: one and three-quarters percent to the
62 Commonwealth as a license tax, one-half percent to the locality in which the satellite facility is located,
63 and one-half percent to the locality in which the racetrack is located. The remainder of the retainage
64 shall be paid as provided in subsection G; provided, however, that if the percentage amount approved by
65 the Commission is other than 22 percent, the amounts provided in subdivisions G 1, 2 and 3 shall be
66 adjusted by the proportion that the approved percentage amount bears to 22 percent.

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

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

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

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

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

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

- 100 1. One percent of the pool to the Virginia Breeders Fund;
- 101 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
- 102 3. Five one-hundredths percent to the Virginia Horse Center Foundation;
- 103 4. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 104 5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of
105 breeding in the Commonwealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Three-quarters percent to the Commonwealth as a license tax, *of which seventy-four-hundredths percent shall accrue to the general fund and one-hundredth percent shall accrue to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2*; and

2. a. If generated at a racetrack, one-half percent to the locality in which the racetrack is located; or
- b. If generated at a satellite facility, one-quarter percent to the locality in which the satellite facility is located and one-quarter percent to the Virginia locality in which the racetrack is located.