

VIRGINIA ACTS OF ASSEMBLY -- 1996 RECONVENED SESSION

CHAPTER 1025

An Act to amend and reenact §§ 59.1-365, 59.1-380, 59.1-383, 59.1-385, and 59.1-403 of the Code of Virginia, relating to the Virginia Racing Commission; licenses; penalty.

[H 1334]

Approved April 17, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-365, 59.1-380, 59.1-383, 59.1-385, and 59.1-403 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-365. Definitions.

Unless another meaning is required by the context, the following words shall have the meanings prescribed by this section:

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten cents.

"Commission" means the Virginia Racing Commission.

"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.

"Horse racing" means a competition on a set course involving a race between horses on which pari-mutuel wagering is permitted.

"Licensee" includes any person holding an owner's, operator's or limited license under §§ 59.1-375 through 59.1-386 of this chapter. 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, 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.

"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 betting thereon as provided in § 59.1-387.

"Person" includes a natural person, partnership, joint venture, association, or corporation.

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

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members, owns or controls, directly or indirectly, five percent or more of the stock of any person which is a licensee, or who in concert with his spouse and immediate family members, has the power to vote or cause the vote of five percent or more of any such stock.

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

"Racetrack" means an outdoor course laid out for horse racing which shall include at least one building or structure adjacent or appurtenant thereto which is permanently affixed to the real estate and for which a certificate of occupancy has been issued by the local building official.

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

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

"Stock" includes all classes of stock of an applicant or licensee corporation, and any debt or other obligation of such corporation or stockholder thereof or stock of an affiliated corporation if the Commission finds that the holder of such obligation or stock derives therefrom such control of or voice in the operation of the applicant or licensee corporation that he should be deemed a stockholder.

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

§ 59.1-380. Duration, form of owner's license; bond.

A. A license issued under § 59.1-378 shall be for the period set by the Commission, not to be less than twenty years, but shall be reviewed annually. The Commission shall designate on the license the duration of such license, the location of such track or satellite facility or proposed track or satellite facility and such other information as it deems proper. The Commission shall establish criteria and procedures for license renewal.

B. Any license now issued by the Commission to own a satellite facility shall be invalid unless on or before July 1, 1997, (i) a written agreement is reached between the holder of any such license and Virginia representatives of the recognized horsemen's groups for the funding of purses for live racing and (ii) live racing, as described in the October 12, 1994, case decision of the Commission, is conducted at a racetrack licensed pursuant to § 59.1-382. No further licenses to own a satellite facility shall be issued unless a written agreement is reached between the holder of any such license and Virginia representatives of the recognized horsemen's groups for the funding of purses for live racing and the appeal of the Commission's October 12, 1994, case decision is adjudicated by the Virginia Court of Appeals.

C. The Commission shall require a bond with surety acceptable to it, and in an amount determined by it, to be sufficient to cover any indebtedness incurred by the licensee to the Commonwealth.

§ 59.1-383. Duration, form of operator's license; bond.

A. A license issued under § 59.1-382 shall be for a period of twenty years from the date of issuance, but shall be reviewed annually. The Commission may, as it deems appropriate, change at the beginning of any year the dates on which the licensee is authorized to conduct a race meeting or pari-mutuel wagering. An applicant for renewal of a license may omit any information which in the opinion of the Commission is already available to it. The Commission shall establish criteria and procedures for license renewal.

Any license issued under § 59.1-382 shall designate on its face the type or types of horse racing or pari-mutuel wagering for which it is issued, the location of the track or satellite facility where such meeting or wagering is to be conducted, the period during which such license is in effect and such other information as the Commission deems proper.

B. Any license now issued by the Commission to operate a satellite facility shall be invalid unless on or before July 1, 1997, (i) a written agreement is reached between the holder of any such license and Virginia representatives of the recognized horsemen's groups for the funding of purses for live racing and (ii) live racing, as described in the October 12, 1994, case decision of the Commission, is conducted at a racetrack licensed pursuant to § 59.1-382. No further licenses to operate a satellite facility shall be issued unless a written agreement is reached between the holder of any such license and Virginia representatives of the recognized horsemen's groups for the funding of purses for live racing and the appeal of the Commission's October 12, 1994, case decision is adjudicated by the Virginia Court of Appeals.

C. The Commission shall require a bond with surety acceptable to it, and in an amount determined by it to be sufficient to cover any indebtedness incurred by such licensee during the days allotted for racing.

§ 59.1-385. Suspension or revocation of license.

A. After a hearing with fifteen days' notice the Commission may suspend or revoke any license, or fine the holder thereof a sum not to exceed \$100,000, in any case where it has reason to believe that any provision of this chapter, or any regulation or condition of the Commission, has not been complied with or has been violated. The Commission may revoke a license if it finds that facts not known by it at the time it considered the application indicate that such license should not have been issued.

B. The Commission shall revoke any license issued under § 59.1-382 for the operation of a satellite facility if the licensee, within one year of issuance of the satellite facility license, fails to conduct live racing at a racetrack licensed pursuant to § 59.1-382.

C. Deliberations of the Commission hereunder shall be conducted pursuant to the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.). If any such license is suspended or revoked, the Commission shall state its reasons for doing so, which shall be entered of record. Such action shall be final unless appealed in accordance with § 59.1-373. Suspension or revocation of a license by the Commission for any violation shall not preclude criminal liability for such violation.

§ 59.1-403. Minors prohibited.

No person shall wager on or conduct any wagering on the outcome of a horse race pursuant to the provisions of this chapter unless such person is eighteen years of age or older. No person shall accept any wager from a minor. *No person shall be admitted into a satellite facility if such person is under eighteen years of age unless accompanied by one of his parents or his legal guardian.* Violation of this section shall be a Class 1 misdemeanor.

2. That the Commission is directed to require the licensee to establish and maintain a construction escrow account. Notwithstanding the provisions of § 59.1-392, the licensee shall deposit in the account the total net profits derived from the operation of satellite facilities licensed pursuant to § 59.1-380 or § 59.1-383 and all interest thereon. For the purposes of this enactment, "total net profits" means the revenues derived from the operation of such satellite facilities, less the licensee's

expenses associated with those satellite facilities, any taxes on those revenues or profits payable by the licensee or its principals, any payments to horsemen pursuant to written agreements, and any amounts pursuant to § 59.1-392 payable to the Commonwealth, the Breeder's Fund, the satellite facility localities and the racetrack localities. The Commission shall oversee the construction escrow account and shall require the balance to be distributed for the purpose of constructing the racetrack licensed by the Commission in its October 12, 1994, case decision.

3. That the amendments to §§ 59.1-365, 59.1-380, 59.1-383, and 59.1-385 of this act shall expire on July 1, 1997, unless reenacted by the 1997 Session of the General Assembly.

4. That the provisions of the second enactment of this act shall expire on July 1, 1997, or on the date that live racing is conducted at a racetrack licensed pursuant to § 59.1-382, whichever date is earlier, unless reenacted by the 1997 Session of the General Assembly.

5. That an emergency exists and this act is in force from its passage.