

Regular Session, 2011

SENATE BILL NO. 212

BY SENATOR SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HORSE RACING. Provides relative to horsemen's insurance programs. (8/15/11)

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AN ACT

To amend and reenact Part IV of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, comprised of R.S. 4:251, 251.1, and 252, relative to horse racing; to provide for horsemen's insurance programs; to provide for horsemen's workers' compensation insurance programs; to provide for horsemen's self-help pension fund; to provide for implementation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part IV of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, comprised of R.S. 4:251, 251.1, and 252 is hereby amended and reenacted to read as follows:

~~PART IV. HORSEMEN'S WORKERS' COMPENSATION~~

~~INSURANCE PROGRAM~~ **PROGRAMS**

§251. Horsemen's Workers' Compensation Insurance ~~Program~~ **Programs**;

legislative findings; authority

A. The legislature hereby finds that:

(1) Workers' compensation insurance coverage and related benefits for workers participating in the horse racing industry has become of limited availability and of inordinate expense throughout this nation and in this state.

1 (2) The limited availability and expensive nature of the cost of workers'
2 compensation insurance coverage and related benefits act as a deterrent to the
3 legislative intent and public policy of this state as set forth in R.S. 4:141.

4 B. Notwithstanding any other law, the Horsemen's Benevolent and Protective
5 Association, pursuant to R.S. 4:179.1, a statutorily authorized representative of
6 horsemen, is hereby authorized and empowered, in addition to any and all other
7 existing powers it may have, to do the following:

8 (1) To establish, operate and administer ~~an insurance program~~ **programs** for
9 the purpose of providing workers' compensation insurance coverage and related
10 benefits to members of the Horsemen's Benevolent and Protective Association and
11 other persons including and especially owners of race horses, licensed by the
12 Louisiana State Racing Commission.

13 (2) To administer the insurance ~~program~~ **programs** as a part of its corporate
14 activity or to carry out the insurance program through one or more other entities
15 which may include a trust established under the law of Louisiana.

16 (3) To establish criteria for eligibility of persons participating in the insurance
17 ~~program~~ **programs** and to be the sole arbiter of said criteria and eligibility for said
18 participation.

19 (4) To declare as surplus and to distribute a portion or all of any accumulated
20 funds derived from the insurance program to the persons participating and to be the
21 sole arbiter of what funds to declare as surplus and what funds to distribute. No
22 distribution shall be made until:

23 (a) Thirty days after the commissioner of insurance has received notice of the
24 declaration thereof and has not within such period disapproved such distribution; and

25 (b) Thirty days after the owners of winning race horses are fully reimbursed
26 the total net sum of monies that said owners would have received if purses and purse
27 supplements had not been used for the establishment, operation, and administration
28 of the insurance program authorized in this Part.

29 (5) To contract with one or more insurers authorized to do business in this

1 state for the purpose of implementing the insurance program.

2 (6) To take such other acts as may be necessary or helpful in establishing,
3 operating and administering the insurance program, including the establishment of
4 premiums ~~which~~ **that** may lower the cost of workers' compensation insurance
5 coverage and related benefits to horsemen and other licensees of the Louisiana State
6 Racing Commission.

7 C. The insurance program authorized in this Part shall be subject to Part IV
8 of Chapter 7, Chapter 8, and Chapter 12 of Title 22 of the Louisiana Revised Statutes
9 of 1950. An annual audited financial statement shall be filed with the commissioner
10 of insurance by July thirty-first of each year for the immediately preceding year
11 ending December thirty-first. The commissioner of insurance shall also have the
12 authority to examine the books, records, and affairs of the Horsemen's Workers'
13 Compensation Insurance Program.

14 §251.1. Horsemen's Self-Help Pension ~~Program~~ **Fund**; legislative findings;
15 authority

16 A. The legislature hereby finds that:

17 (1) Trainers and owners of racehorses are horsemen and are essential to the
18 business of horse racing.

19 (2) The number of trainers of racehorses domiciled in Louisiana is
20 diminishing.

21 (3) Trainers of racehorses recruit new owners of racehorses.

22 (4) Additional incentives are needed to encourage more persons to enter the
23 business of training racehorses.

24 (5) The Horsemen's Benevolent and Protective Association maintains a
25 modest pension ~~program~~ **fund** for trainers through the utilization of funds derived
26 from horsemen.

27 (6) The Horsemen's Benevolent and Protective Association is willing to
28 utilize purses and purse supplements to improve the pension benefits to its trainer
29 members for the purpose of increasing the number of trainers entering the business

1 of horse racing.

2 (7) The improvement of pension benefits to trainer members of the
3 Horsemen's Benevolent and Protective Association through the utilization of purses
4 and purse supplements, for the purpose of increasing incentives to encourage **and**
5 **attract** persons to enter the business of training racehorses, and to thereby improve
6 the business of horse racing, is needed through the establishment of a horsemen's
7 self-help ~~program~~ **fund** to be known as the Horsemen's Self-Help Pension **Program**
8 **Fund**.

9 (8) The making of a pension ~~program~~ **fund** that is self-sustaining by utilizing
10 a portion of the fund is a worthy and helpful goal to be achieved.

11 B. Notwithstanding any other law to the contrary, the Horsemen's Benevolent
12 and Protective Association, pursuant to R.S. 4:179.1, may perform the following
13 activities:

14 (1) Of the purses and purse supplements authorized for use by the Horsemen's
15 Benevolent and Protective Association in this Part for the Horsemen's Benevolent
16 and Protective Association's workers compensation insurance program, pursuant to
17 R.S. 4:252(C)(5), the Horsemen's Benevolent and Protective Association may utilize
18 up to one-half of that authorized two percent of the total amount of purses and purse
19 supplements available for purses for any race meet for the improvement and
20 administration of the Horsemen's Self-Help Pension ~~Program~~ **Fund** without the
21 limitations and conditions established for the Horsemen's Benevolent and Protective
22 Association's workers compensation insurance program but with the limitations
23 expressly established in Paragraphs (2) and (3) of this Subsection for the Horsemen's
24 Self-Help Pension ~~Program~~ **Fund**.

25 (2) In utilizing the monies authorized hereby for improving and administering
26 the Horsemen's Self-Help Pension ~~Program~~ **Fund**, not more than seventy-five
27 percent shall be used to directly improve pension benefits and the remainder shall be
28 placed for investment in the pension program's trust fund for the purpose of helping
29 to ensure the long-term integrity of said pension trust fund and to help provide that

1 the said trust fund becomes self-sustaining.

2 (3) Notwithstanding any provision of law to the contrary, the total amount of
3 purses and purse supplements that may be used by the Horsemen's Benevolent and
4 Protective Association for the Horsemen's Benevolent and Protective Association's
5 workers compensation insurance program and the Horsemen's Self-Help Pension
6 **Program Fund** combined may not exceed two percent of the total amount of purses
7 and purse supplements available for purses for any race meet.

8 (4) If the two percent revenue from purses and purse supplements presently
9 being utilized by the Horsemen's Benevolent and Protective Association's workers
10 compensation insurance ~~program~~ **programs** cease or is **are** interrupted for any
11 reason whatsoever, then the authority for the Horsemen's Benevolent and Protective
12 Association to utilize up to one percent of purses and purse supplements for
13 improvement and administration of the Horsemen's Self-Help Pension ~~Program~~
14 **Fund** shall continue until such time as the two percent revenue from purses and
15 purse supplements is again utilized by such workers compensation program.

16 (5) All funds derived from the two percent revenue from purses and purse
17 supplements presently being utilized by the Horsemen's Benevolent and Protective
18 Association for the Horsemen's Self-Help Pension ~~Program~~ **Fund** and the
19 Horsemen's Benevolent and Protective Association's workers compensation
20 insurance program following August 15, 2008 shall be utilized without the
21 limitations and conditions previously established which are related to limits and
22 repayments of such fund to purses, however, same are specifically limited to no more
23 than two percent of the total amount of purses and purse supplements available for
24 purses for any race meet.

25 §252. Implementation of the insurance ~~program~~ **programs**; certificate of coverage

26 A. The Horsemen's Benevolent and Protective Association is encouraged to
27 immediately and diligently seek to secure and provide workers' compensation
28 insurance coverage and related benefits from an insurance company authorized to do
29 business in this state, for the benefit of trainers and others licensed by the Louisiana

1 State Racing Commission.

2 B. For the purpose of securing and providing workers' compensation
3 insurance coverage and related benefits at reasonable rates, the Horsemen's
4 Benevolent and Protective Association may utilize assets, revenues and revenue
5 sources received by or due to it for the benefit of horsemen by creating a reserve
6 fund. These assets, revenues and revenue sources may be used or pledged as security
7 for use in creating the fund. However, the total sum of such revenues used shall not
8 exceed six million dollars. Use of monies in and expenditures from the reserve fund
9 shall be solely for the purposes of establishing, operating and administering the
10 insurance program authorized in this Part.

11 C. At the time that the workers' compensation insurance coverage and related
12 benefits ~~program~~ **programs** as authorized in this Part is available through the
13 Horsemen's Benevolent and Protective Association for the benefit of trainers,
14 owners, and others licensed by the Louisiana State Racing Commission, the
15 following conditions shall apply:

16 (1) In addition to all other requirements for a trainer's license, each applicant
17 for a trainer's license shall furnish to the Louisiana State Racing Commission, prior
18 to being licensed, a certificate of workers' compensation insurance coverage issued
19 by the Horsemen's Benevolent and Protective Association or its authorized insurer
20 indicating the following:

21 (a) That workers' compensation insurance coverage is in full force and effect
22 for the employees of the applicant; or

23 (b) That the applicant applied for workers' compensation insurance coverage
24 but was declined for good cause.

25 (2) If the certificate of workers' compensation insurance coverage indicates
26 that the trainer applied for the coverage under the insurance program authorized in
27 this Part, but was declined for good cause, then that trainer shall provide a certificate
28 of workers' compensation insurance coverage and related benefits from another
29 insurance company authorized to do business in this state or otherwise acceptable to

1 the Louisiana State Racing Commission.

2 (3) No racing association in this state shall admit any trainer into its racing
3 facilities prior to obtaining from the trainer a certificate of workers' compensation
4 insurance coverage issued by the Horsemen's Benevolent and Protective Association
5 or its authorized insurer. This certificate shall indicate that workers' compensation
6 insurance coverage is in full force and effect for the employees of the trainer. If the
7 certificate of workers' compensation insurance coverage indicates that the trainer
8 applied for coverage under the insurance ~~program~~ **programs** authorized in this Part
9 but was declined for good cause, then that trainer shall provide a certificate of
10 workers' compensation insurance coverage and related benefits from another
11 insurance company authorized to do business in this state or otherwise acceptable to
12 the racing association, which acceptance shall not be unreasonably withheld by the
13 racing association.

14 (4) All racing associations in this state are encouraged to cooperate with the
15 Horsemen's Benevolent and Protective Association in the implementation of the
16 insurance program authorized in this Part. Upon written request by the Horsemen's
17 Benevolent and Protective Association, racing associations shall promptly transfer
18 to the Horsemen's Benevolent and Protective Association those monies, including
19 purses and purse supplements, held by the racing associations for the benefit of the
20 horsemen and the Horsemen's Benevolent and Protective Association. This written
21 request shall indicate that the purposes of the requested transfer are for the
22 establishment, operation or administration of the insurance program authorized in
23 this Part.

24 (5) The total amount of purses and purse supplements authorized for use by
25 the Horsemen's Benevolent and Protective Association for establishment, operation
26 or administration of the insurance ~~program~~ **programs** authorized in this Part shall
27 not exceed two percent of the total amount of purses and purse supplements available
28 for purses for any race meet.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

DIGEST

Present law provides for a Horsemen's Workers' Compensation Insurance Program.

Proposed law retains present law, but changes all references of "program" to "programs".

Present law provides for a Horsemen's Self-Help Pension Program.

Proposed law retains present law, but changes all references of "program" to "fund".

Present law provides for implementation of the Horsemen's Workers' Compensation Insurance Program.

Proposed law retains present law, but changes all references of "program" to "programs".

Effective August 15, 2011.

(Amends R.S. 4:251, 251.1, and 252)