

HOUSE BILL NO. 1997

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate Krizek)

A BILL to amend and reenact § 59.1-369 of the Code of Virginia, relating to Virginia Racing Commission; powers and duties; ratio of live racing days to number of historical horse racing terminals.

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-369 of the Code of Virginia is amended and reenacted as follows:

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

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

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

2. The Commission, its representatives, and employees shall visit, investigate, and have free access to the office, track, facilities, satellite facilities or other places of business of any license or permit holder, and may compel the production of any of the books, documents, records, or memoranda of any license or permit holder for the purpose of satisfying itself that this chapter and its regulations are strictly complied with. In addition, the Commission may require any person granted a permit by the Commission and shall require any person licensed by the Commission, the recognized majority horsemen's group, and the

27 nonprofit industry stakeholder organization recognized by the Commission under this chapter to produce
28 an annual balance sheet and operating statement prepared by a certified public accountant approved by
29 the Commission. The Commission may require the production of any contract to which such person is or
30 may be a party.

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

41 4. The Commission shall promulgate regulations and conditions under which simulcast horse
42 racing shall be conducted at a licensed horse racetrack or satellite facility in the Commonwealth and all
43 such other regulations it deems necessary and appropriate to effect the purposes of this chapter. Such
44 regulations shall include provisions that all simulcast horse racing shall comply with the Interstate Horse
45 Racing Act of 1978 (15 U.S.C. § 3001 et seq.) and shall require the holder of a license to schedule no
46 more than 125 live racing days in the Commonwealth each calendar year; however, the Commission shall
47 have the authority to alter the required number of live racing days ~~based on what the Commission deems~~
48 ~~to be in the best interest of the Virginia horse industry~~ in the event of force majeure. Such regulations shall
49 authorize up to 10 satellite facilities and restrict majority ownership of satellite facilities to an entity
50 licensed by the Commission that is a significant infrastructure limited licensee, or if by August 1, 2015,
51 there is no such licensee or a pending application for such license, then the nonprofit industry stakeholder
52 organization recognized by the Commission may be granted licenses to own or operate satellite facilities.
53 If, however, after the issuance of a license to own or operate a satellite facility to such nonprofit industry

54 stakeholder organization, the Commission grants a license to a significant infrastructure limited licensee
55 pursuant to § 59.1-376, then such limited licensee may own or operate the remaining available satellite
56 facilities authorized in accordance with this subdivision. In no event shall the Commission authorize any
57 such entities to own or operate more than a combined total of 10 satellite facilities. Nothing in this
58 subdivision shall be deemed to preclude private local ownership or participation in any satellite facility.
59 Except as authorized pursuant to subdivision 5, wagering on simulcast horse racing shall take place only
60 at a licensed horse racetrack or satellite facility. For purposes of this subdivision, "force majeure" means
61 an event or events reasonably beyond the ability of the Commission to anticipate and control. "Force
62 majeure" includes acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances,
63 floods, earthquakes, fire, explosions, epidemics, hurricanes, tornadoes, and governmental actions and
64 restrictions.

65 5. The Commission shall promulgate regulations and conditions regulating and controlling
66 advance deposit account wagering. Such regulations shall include, but not be limited to, (i) standards,
67 qualifications, and procedures for the issuance of a license to an entity for the operation of pari-mutuel
68 wagering in the Commonwealth; except that the Commission shall not issue a license to, and shall revoke
69 the license of, an entity that, either directly or through an entity under common control with it, withholds
70 the sale at fair market value to a licensee of simulcast horse racing signals that such entity or an entity
71 under common control with it sells to other racetracks, satellite facilities, or advance deposit account
72 wagering providers located in or outside of the Commonwealth; (ii) provisions regarding access to books,
73 records, and memoranda, and submission to investigations and audits, as authorized by subdivisions 2 and
74 10; and (iii) provisions regarding the collection of all revenues due to the Commonwealth from the placing
75 of such wagers. No pari-mutuel wager may be made on or with any computer owned or leased by the
76 Commonwealth, or any of its subdivisions, or at any public elementary or secondary school or institution
77 of higher education. The Commission also shall ensure that, except for this method of pari-mutuel
78 wagering, all wagering on simulcast horse racing shall take place only at a licensed horse racetrack or
79 satellite facility.

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

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

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

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

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

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

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

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

103 13. The Commission, its representatives and employees may, within the enclosure, stable, or other
104 facility related to the conduct of racing, and during regular or usual business hours, subject any (i) permit
105 holder to personal inspections, including alcohol and drug testing for illegal drugs, inspections of personal
106 property, and inspections of other property or premises under the control of such permit holder and (ii)

107 horse eligible to race at a race meeting licensed by the Commission to testing for substances foreign to the
108 natural horse within the racetrack enclosure or other place where such horse is kept. Any item, document
109 or record indicative of a violation of any provision of this chapter or Commission regulations may be
110 seized as evidence of such violation. All permit holders consent to the searches and seizures authorized
111 by this subdivision, including breath, blood and urine sampling for alcohol and illegal drugs, by accepting
112 the permit issued by the Commission. The Commission may revoke or suspend the permit of any person
113 who fails or refuses to comply with this subdivision or any rules of the Commission. Commission
114 regulations in effect on July 1, 1998, shall continue in full force and effect until modified by the
115 Commission in accordance with law.

116 14. The Commission shall require the existence of a contract between each licensee and the
117 recognized majority horsemen's group for that licensee. Such contract shall be subject to the approval of
118 the Commission, which shall have the power to approve or disapprove any of its items, including but not
119 limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools generated
120 by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first \$75 million of the
121 total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of five percent
122 in the horsemen's purse account, (ii) for any amount in excess of \$75 million but less than \$150 million
123 of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of six
124 percent in the horsemen's purse account, (iii) for amounts in excess of \$150 million for each breed, the
125 licensee shall deposit funds at the minimum rate of seven percent in the horsemen's purse account. Such
126 deposits shall be made in the horsemen's purse accounts of the breed that generated the pools and such
127 deposits shall be made within five days from the date on which the licensee receives wagers. In the absence
128 of the required contract between the licensee and the recognized majority horsemen's group, the
129 Commission may permit wagering to proceed on simulcast horse racing from outside of the
130 Commonwealth, provided that the licensee deposits into the State Racing Operations Fund created
131 pursuant to § 59.1-370.1 an amount equal to the minimum percentage of the total pari-mutuel handles as
132 required in clauses (i), (ii), and (iii) or such lesser amount as the Commission may approve. The deposits
133 shall be made within five days from the date on which the licensee receives wagers. Once a contract

134 between the licensee and the recognized majority horsemen's group is executed and approved by the
135 Commission, the Commission shall transfer these funds to the licensee and the horsemen's purse accounts.

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

142 16. The Commission shall promulgate regulations requiring, for each calendar year, any significant
143 infrastructure limited licensee that offers pari-mutuel wagering on historical horse racing to hold at least
144 one live Thoroughbred horse racing day, consisting of not less than eight races per day, for every 100
145 historical horse racing terminals installed at its significant infrastructure facility together with any satellite
146 facility owned, operated, controlled, managed, or otherwise directly or indirectly affiliated with such
147 licensee. The regulations shall require any such significant infrastructure limited licensee that holds more
148 than one live Thoroughbred horse racing day in accordance with the provisions of this subdivision to hold
149 at least one of those racing days on a weekend. The number of historical horse racing terminals installed
150 at a significant infrastructure facility shall be calculated as of December 31 of the calendar year in
151 question; however, only historical horse racing terminals that are fully operational shall be included in
152 such calculation.

153 **2. That the provisions of this act shall become effective on July 1, 2024.**

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