

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

HOUSE BILL NO. 2166  
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 §§ 59.1-365 and 59.1-392 of the Code of Virginia, relating to horse racing and pari-mutuel wagering; breakage.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 59.1-365 and 59.1-392 of the Code of Virginia are amended and reenacted as follows:**

**§ 59.1-365. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Advance deposit account wagering" means a method of pari-mutuel wagering conducted in the Commonwealth that is permissible under the Interstate Horseracing Act, (15 U.S.C. § 3001 et seq.) of Chapter 57 of Title 15 of the United States Code, and in which an individual may establish an account with an entity, licensed by the Commission, to place pari-mutuel wagers in person or electronically.

"Breakage," with respect to historical horse racing, means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of \$0.10.

"Breakage," with respect to horse racing other than historical horse racing, means the odd cents by which the amount payable on each dollar wagered exceeds one cent (\$0.01).

"Commission" means the Virginia Racing Commission.

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

"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.

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

"Historical horse racing" means a form of horse racing that creates pari-mutuel pools from wagers placed

31 on previously conducted horse races and is hosted at (i) a racetrack owned or operated by a significant  
32 infrastructure limited licensee or (ii) a satellite facility that is owned or operated by (a) a significant  
33 infrastructure limited licensee or (b) the nonprofit industry stakeholder organization recognized by the  
34 Commission and licensed to own or operate such satellite facility.

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

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

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

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

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

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

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

59 "Person" means any individual, group of individuals, firm, company, corporation, partnership, business,

60 trust, association, or other legal entity.

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

62 "Principal stockholder" means any person who individually or in concert with his spouse and immediate  
63 family members, beneficially owns or controls, directly or indirectly, five percent or more of the stock of any  
64 person which is a licensee, or who in concert with his spouse and immediate family members, has the power  
65 to vote or cause the vote of five percent or more of any such stock. However, "principal stockholder" shall  
66 not include a broker-dealer registered under the Securities Exchange Act of 1934 (*15 U.S.C. § 78a et seq.*), as  
67 amended, which holds in inventory shares for sale on the financial markets for a publicly traded corporation  
68 holding, directly or indirectly, a license from the Commission.

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

71 "Racetrack" means an outdoor course located in Virginia which is laid out for horse racing and is licensed  
72 by the Commission.

73 "Recognized majority horsemen's group" means the organization recognized by the Commission as the  
74 representative of the majority of owners and trainers racing at race meetings subject to the Commission's  
75 jurisdiction.

76 "Retainage" means the total amount deducted from the pari-mutuel wagering pool for (i) a license fee to  
77 the Commission and localities, (ii) the licensee, (iii) purse money for the participants, (iv) the Virginia  
78 Breeders Fund, and (v) certain enumerated organizations as required or permitted by law, regulation, or  
79 contract approved by the Commission.

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

82 "Significant infrastructure facility" means a horse racing facility that has been approved by a local  
83 referendum pursuant to § 59.1-391 and has a minimum racing infrastructure consisting of (i) a one-mile dirt  
84 track for flat racing, (ii) a seven-eighths-mile turf course for flat or jump racing, (iii) covered seating for no  
85 fewer than 500 persons, and (iv) barns with no fewer than 400 permanent stalls.

86 "Significant infrastructure limited licensee" means a person who owns or operates a significant  
87 infrastructure facility and holds a limited license under § 59.1-376.

88 "Simulcast horse racing" means the simultaneous transmission of the audio or video portion, or both, of

89 horse races from a licensed horse racetrack or satellite facility to another licensed horse racetrack or satellite  
90 facility, regardless of state of licensure, whether such races originate within the Commonwealth or any other  
91 jurisdiction, by satellite communication devices, television cables, telephone lines, or any other means for the  
92 purposes of conducting pari-mutuel wagering.

93 "Steward" means a racing official, duly appointed by the Commission, with powers and duties prescribed  
94 by Commission regulations.

95 "Stock" includes all classes of stock, partnership interest, membership interest, or similar ownership  
96 interest of an applicant or licensee, and any debt or other obligation of such person or an affiliated person if  
97 the Commission finds that the holder of such interest or stock derives therefrom such control of or voice in  
98 the operation of the applicant or licensee that he should be deemed an owner of stock.

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

101 **§ 59.1-392. Percentage retained; tax.**

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

105 B. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the  
106 Commonwealth, involving win, place, and show wagering, the licensee shall retain a percentage amount  
107 approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee  
108 and the legitimate breakage, out of which shall be paid 1.25 percent to be distributed as follows: 1.0 percent  
109 to the Commonwealth as a license tax and 0.25 percent to the locality in which the racetrack is located. The  
110 remainder of the retainage shall be paid as provided in subsection D, provided, however, that if the  
111 percentage amount approved by the Commission is other than 18 percent, the amounts provided in  
112 subdivisions D 1, 2, and 3 shall be adjusted by the proportion that the approved percentage amount bears to  
113 18 percent.

114 C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing  
115 conducted within the Commonwealth, involving win, place, and show wagering, the licensee shall retain a  
116 percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's  
117 group and a licensee and the legitimate breakage, out of which shall be paid 1.25 percent to be distributed as

118 follows: 0.75 percent to the Commonwealth as a license tax, 0.25 percent to the locality in which the satellite  
119 facility is located, and 0.25 percent to the locality in which the racetrack is located. The remainder of the  
120 retainage shall be paid as provided in subsection D, provided, however, that if the percentage amount  
121 approved by the Commission is other than 18 percent, the amounts provided in subdivisions D 1, 2, and 3  
122 shall be adjusted by the proportion that the approved percentage amount bears to 18 percent.

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

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

135 E. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the  
136 Commonwealth involving wagering other than win, place, and show wagering, the licensee shall retain a  
137 percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's  
138 group and a licensee and the legitimate breakage, out of which shall be paid 2.75 percent to be distributed as  
139 follows: 2.25 percent to the Commonwealth as a license tax, and 0.5 percent to the locality in which the  
140 racetrack is located. The remainder of the retainage shall be paid as provided in subsection G, provided,  
141 however, that if the percentage amount approved by the Commission is other than 22 percent, the amounts  
142 provided in subdivisions G 1, 2, and 3 shall be adjusted by the proportion that the approved percentage  
143 amount bears 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 recognized

147 majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid 2.75 percent  
148 to be distributed as follows: 1.75 percent to the Commonwealth as a license tax, 0.5 percent to the locality in  
149 which the satellite facility is located, and 0.5 percent to the locality in which the racetrack is located. The  
150 remainder of the retainage shall be paid as provided in subsection G, provided, however, that if the  
151 percentage amount approved by the Commission is other than 22 percent, the amounts provided in  
152 subdivisions G 1, 2, and 3 shall be adjusted by the proportion that the approved percentage amount bears to  
153 22 percent.

154 G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live  
155 horse racing conducted within the Commonwealth involving wagering other than win, place, and show  
156 wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by  
157 a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be  
158 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 which  
161 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 outside the  
168 Commonwealth, the licensee may, with the approval of the Commission, commingle pools with the racetrack  
169 where the transmission emanates or establish separate pools for wagering within the Commonwealth. All  
170 simulcast horse racing in this subsection must comply with the Interstate Horse Racing Act of 1978 (15  
171 U.S.C. § 3001 et seq.).

172 I. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted from  
173 jurisdictions outside the Commonwealth, involving win, place, and show wagering, the licensee shall retain  
174 1.25 percent of such pool to be distributed as follows: 0.75 percent to the Commonwealth as a license tax,  
175 and 0.5 percent to the Virginia locality in which the racetrack is located.

176 J. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse racing  
177 transmitted from jurisdictions outside the Commonwealth, involving win, place, and show wagering, the  
178 licensee shall retain 1.25 percent of such pool to be distributed as follows: 0.75 percent to the Commonwealth  
179 as a license tax, 0.25 percent to the locality in which the satellite facility is located, and 0.25 percent to the  
180 Virginia locality in which the racetrack is located.

181 K. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on  
182 simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place, and  
183 show wagering, the licensee shall retain 1.3 percent of such pool to be distributed as follows:

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

190 L. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted  
191 from jurisdictions outside the Commonwealth, involving wagering other than win, place, and show wagering,  
192 the licensee shall retain 2.75 percent of such pool to be distributed as follows: 1.75 percent to the  
193 Commonwealth as a license tax, and 1.0 percent to the Virginia locality in which the racetrack is located.

194 M. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse  
195 racing transmitted from jurisdictions outside the Commonwealth, involving wagering other than win, place,  
196 and show wagering, the licensee shall retain 2.75 percent of such pool to be distributed as follows: 1.75  
197 percent to the Commonwealth as a license tax, 0.5 percent to the locality in which the satellite facility is  
198 located, and 0.5 percent to the Virginia locality in which the racetrack is located.

199 N. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on  
200 simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving wagering other  
201 than win, place, and show wagering, the licensee shall retain 1.3 percent of such pool to be distributed as  
202 follows:

- 203 1. One percent of the pool to the Virginia Breeders Fund;
- 204 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;

- 205 3. Five one-hundredths percent to the Virginia Horse Center Foundation;  
206 4. Five one-hundredths percent to the Virginia Horse Industry Board; and  
207 5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of breeding in  
208 the Commonwealth.

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

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

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

223 R. Any contractual agreement between a licensee and other entities concerning the distribution of the  
224 remaining portion of the retainage under subsections I through N and subsections  $\cup V$  and  $\forall W$  shall be  
225 subject to the approval of the Commission.

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

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

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

233 2. Thirty percent to be deposited in the Racing Benevolence Fund, administered jointly by the licensee



234 and the recognized majority horsemen's group racing at a licensed race meeting, to be disbursed with the  
235 approval of the Commission for gambling addiction and substance abuse counseling, recreational,  
236 educational, or other related programs.

237 U. *The legitimate breakage from each pari-mutuel pool for historical horse racing shall be distributed as*  
238 *follows:*

239 1. *Seventy percent to the Problem Gambling Treatment and Support Fund established pursuant to §*  
240 *37.2-314.2; and*

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

245 V. On pari-mutuel pools generated by wagering on historical horse racing on the first 3,000 terminals  
246 authorized, the licensee shall retain 1.25 percent of such pool to be distributed as follows:

- 247 1. a. If generated at a racetrack, 0.5 percent to the locality in which the racetrack is located; or
- 248 b. If generated at a satellite facility, 0.25 percent to the locality in which the satellite facility is located and  
249 0.25 percent to the Virginia locality in which the racetrack is located;

250 2. To the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2, 0.01  
251 percent;

252 3. To the (i) Virginia Breeders Fund, (ii) Virginia-Maryland Regional College of Veterinary Medicine for  
253 its equine programs, (iii) Virginia Horse Center Foundation, and (iv) Virginia Horse Industry Board, 0.025  
254 percent each; and

255 4. The remainder to the Commonwealth as a license tax.

256 ~~W.~~ W. On pari-mutuel pools generated by wagering on historical horse racing on the 2,000 terminals  
257 authorized by the seventh enactment of Chapters 1197 and 1248 of the Acts of Assembly of 2020, the  
258 licensee shall retain 1.6 percent of such pool to be distributed as follows:

- 259 1. a. If generated at a racetrack, 0.64 percent to the locality in which the racetrack is located; or
- 260 b. If generated at a satellite facility, 0.32 percent to the locality in which the satellite facility is located and  
261 0.32 percent to the Virginia locality in which the racetrack is located;

262 2. To the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2, 0.01

**263** percent;

**264** 3. To the (i) Virginia Breeders Fund, (ii) Virginia-Maryland Regional College of Veterinary Medicine for

**265** its equine programs, (iii) Virginia Horse Center Foundation, and (iv) Virginia Horse Industry Board, 0.025

**266** percent each; and

**267** 4. The remainder to the Commonwealth as a license tax.