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

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

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

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

"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, plus any amounts provided by a licensee, less deductions required or permitted by law and includes pari-mutuel wagering on historical horse racing and simulcast horse racing originating within the Commonwealth or from any other jurisdiction.

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

"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 wagering thereon as provided in § 59.1-387.

"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~~ of the proceeds of pari-mutuel tickets
129 unredeemed 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 U and V shall be subject to
225 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 the Problem Gambling Treatment and Support Fund established pursuant to §
233 37.2-314.2; and

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

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

- 240 1. a. If generated at a racetrack, 0.5 percent to the locality in which the racetrack is located; or
- 241 b. If generated at a satellite facility, 0.25 percent to the locality in which the satellite facility is located and
242 0.25 percent to the Virginia locality in which the racetrack is located;
- 243 2. To the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2, 0.01

244 percent;

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

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

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

252 1. a. If generated at a racetrack, 0.64 percent to the locality in which the racetrack is located; or

253 b. If generated at a satellite facility, 0.32 percent to the locality in which the satellite facility is located and
254 0.32 percent to the Virginia locality in which the racetrack is located;

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

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

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