

No. 1983-93

AN ACT

HB 1391

Amending the act of December 17, 1981 (P.L.435, No.135), entitled "An act providing for the regulation of pari-mutuel thoroughbred horse racing and harness horse racing activities; imposing certain taxes and providing for the disposition of funds from pari-mutuel tickets," merging the State Horse Racing Fund and the State Harness Racing Fund into a single State Racing Fund; revising the taxation of funds from pari-mutuel tickets; and further providing for the distribution of revenues.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 202(b)(3), 208(a) and (b), 213(a) and 217(b) of the act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act, are amended to read:

Section 202. General powers of the commissions.

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(b) Without limiting the generality of the foregoing and in addition to its other powers:

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(3) The rules of the commissions shall also provide that all winning pari-mutuel tickets must be presented for payment before April 1 of the year following the year of their purchase and failure to present the ticket within the prescribed period of time shall constitute a waiver of the right to participate in the award. After April 1 of the year following, all licensed corporations will forward to the State Treasurer through the Department of Revenue for credit to the [respective racing funds] *State Racing Fund* all funds so held for the uncashed tickets. Where it is shown to the satisfaction of the appropriate commission and the Department of Revenue, through substantiated and recorded data, that the reason for the pari-mutuel ticket or tickets being outstanding and unclaimed is loss, misplacement or theft within the confines and control of the pari-mutuel department of any licensed corporation and it is shown to the satisfaction of the appropriate commission and the Department of Revenue that the pari-mutuel ticket or tickets in question have been cashed by the pari-mutuel department, the Department of Revenue, with the approval of the appropriate commission, may adjust and credit the licensed corporation's outstanding ticket account accordingly on March 31 of the year following the year of purchase or after a complete audit of the outstanding tickets accounts have been performed. The licensed corporation shall reimburse any employee who has been held personally accountable and paid for the lost, misplaced or stolen tickets.

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Section 208. State admissions taxes.

(a) Every corporation holding a thoroughbred horse race meeting under this act shall collect, in addition to the admission price of tickets sold or otherwise disposed of, for each meeting held by the corporation, a tax equivalent to 15% of the admission price, or 15¢ whichever is greater. In case of failure to collect the tax, the tax shall be imposed upon the corporation holding the race meeting. The tax shall be paid to the Department of Revenue within ten days of collection. The amounts collected shall be paid into the State Treasury to the credit of the State **[Horse]** Racing Fund. Before any corporation liable to pay the tax shall hold any race meeting, or exercise any of the powers conferred by this act, the corporation shall pay all taxes due, and shall file a statement with the Department of Revenue containing the name of the place and stating the time when the races are to be held. Nothing in this section shall apply to a race meeting conducted by any state, county or other agricultural association. Retroactive to September 1, 1981 and thereafter, the admission tax shall be decreased to a tax equivalent to 10% of the admission price. Then on September 1, 1982 and thereafter, the admission tax shall be decreased to a tax equivalent to 5% of the admission price.

(b) Every corporation holding a harness horse race meeting shall collect, in addition to the admission price of tickets sold or otherwise disposed of, for each such meeting held by the corporation, a tax equivalent to 5% of the admission price. In case of failure to collect the tax, the tax shall be imposed upon the corporation holding the race meeting. The tax shall be paid to the Department of Revenue within ten days after the close of each race meeting. The amounts collected shall be paid into the State Treasury to the credit of the State **[Harness]** Racing Fund. Before any corporation liable to pay the tax shall hold any race meeting, or exercise any of the powers conferred by this act, the corporation shall pay all taxes due and file a statement with the Department of Revenue containing the name of the place and stating the time when the races are to be held. Nothing in this section shall apply to a race meeting conducted by any state, county or other agricultural association.

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Section 213. Licenses for commissioners, employees and participants at horse race meetings.

(a) Each commission shall license trainers, jockeys, drivers, persons participating in thoroughbred and harness horse race meetings, horse owners and all other persons and vendors exercising their occupation or employed at thoroughbred and harness horse race meetings. Each commission shall fix the license fees to be paid by persons or corporations so licensed; provided, however, that such occupational license fees shall not exceed \$100. All fees shall be paid to the commissions and by them paid into the State Treasury through the Department of Revenue and credited to the **[respective]** State **[Horse]** Racing Fund **[or State Harness Racing Fund]**. The application shall be in the form and contain the information as each commission may require. All licenses may be issued for more than a one year term. The commissions

may also stagger the termination dates and renewal dates of the licenses, in order to process and issue the licenses in an orderly manner. The commissions shall fix the manner by which licenses are processed and issued by rule or regulation.

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Section 217. Refunds.

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(b) Refunds shall, upon approval by the commission and after approval by the Board of Finance and Revenue, be paid from any moneys in the [respective] State [Horse] Racing Fund [or State Harness Racing Fund].

Section 2. Section 221 of the act is amended to read:

Section 221. Retention percentages for pari-mutuel pools.

(a) Every licensed corporation shall distribute the moneys in any pari-mutuel pool to the holders of winning tickets under the following requirements:

(1) all tickets shall be presented for payment before the first day of April of the year following the year of their purchase; and

(2) seventeen percent of the moneys plus the breakage from regular wagering pools shall be retained by the licensed corporations for further distribution under section 222; or

(3) nineteen percent of the moneys plus the breakage from regular wagering pools from licensed corporations whose total deposits in all pari-mutuel pools averaged less than \$300,000 per racing day for their previous meeting at the same facility; or

(4) [nineteen] *nineteen and seven-tenths* percent of the moneys plus the breakage from the exacta, daily double, quinella and other wagering pools involving two horses each racing day shall be retained by the licensed corporations for further distribution under section 222; or

(5) at least [25%] *25.7%* but no more than 35% of the moneys plus the breakage from the trifecta or other wagering pools involving more than two horses in one or more races each racing day shall be retained by the licensed corporations for further distribution under section 222; and

(6) *except as provided for in subsection (d.1) of section 222*, every corporation may retain less than 17% [or], 19% *or 19.7%* of the moneys in the wagering pools under paragraphs (2), (3) and (4) or less than [25%] *25.7%* of the moneys in the wagering pools under paragraph (5) upon approval from the appropriate commission; and

(7) every corporation may retain more than 25% but no more than 35% of the moneys in the wagering pools under paragraph (5) upon approval from the appropriate commission; and

(8) all moneys remaining in the wagering pools described under paragraphs (2), (3), (4), (5), (6) and (7) shall be distributed to the holders of winning tickets.

(b) Breakage shall mean the odd cents of redistributions to be made on all contributions to pari-mutuel pools exceeding a sum equal to the next lowest multiple of ten.

(c) The commissions shall establish by rule or regulation provisions for minus-pools relating to the retention requirements under this section.

(d) From the moneys retained by the corporations licensed to conduct thoroughbred horse race meetings following distribution as prescribed in subsection (a)(2), (3), (4), (5), (6) and (7), beginning January 1, 1984, an amount equivalent to 0.33% of the amount wagered each racing day at each corporation conducting a licensed thoroughbred horse race meeting is to be used by that corporation, in combination with the moneys assigned it under section 223(c) and (d), for purses for races restricting or preferring entry to registered Pennsylvania-bred thoroughbred horses as described therein. This equivalent amount is to be considered part of any distribution agreement between individual corporations licensed to conduct thoroughbred horse race meetings and horsemen racing at said meetings of those moneys described in section 222(c).

Section 3. Section 222(a) and (b) of the act, subsection (b) amended December 13, 1982 (P.L.1207, No.277), are amended and subsections are added to read:

Section 222. Distribution of moneys retained from pari-mutuel pools; taxation.

(a) At the close of each racing day, all licensed corporations out of the moneys retained on that day under section 221 shall distribute these moneys in the following manner:

(1) Seven-tenths of one percent of the amount wagered each racing day at thoroughbred horse race meetings shall be paid through the Department of Revenue into the State Treasury for credit to the Pennsylvania Breeding Fund. From September 1, 1981, ending on January 1, 1982, a licensed corporation conducting thoroughbred horse race meetings shall pay out of the amount wagered each racing day through the Department of Revenue for credit to the State Horse Racing Fund a tax of 4.55%.

(2) Seven-tenths of one percent of the amount wagered each racing day at harness horse race meetings shall be paid through the Department of Revenue for credit to the Pennsylvania Sire Stakes Fund. From September 1, 1981, ending on January 1, 1982, a licensed corporation conducting harness horse race meetings, except licensed corporations in school districts of the first class, shall pay out of the amount wagered each day through the Department of Revenue for credit to the State Harness Racing Fund a tax of 4.5%. From September 1, 1981, ending on January 1, 1982, a licensed corporation conducting harness horse race meetings in a school district of the first class shall pay out of the amount wagered each racing day through the Department of Revenue for credit to the State Harness Racing Fund a tax of .5%.

(3) (a) There is hereby created the State [Harness] Racing Fund [and the State Horse Racing Fund]. All licensed corporations that conduct harness race meetings shall pay a tax through the Department of Revenue for credit to the State [Harness] Racing Fund. All licensed corporations that conduct thoroughbred horse race meetings shall pay a tax through the Department of Revenue for credit to the State [Horse] Racing Fund. The

tax imposed on all licensed corporations shall be a percentage tax on the amount wagered each racing day and be paid from the moneys retained under section 221. **[The tax shall be computed according to the following schedule:**

(i) For the first 35 racing days in each calendar year conducted by each licensed corporation, the tax is 4 1/2%.

(ii) For the 36th racing day through to the 55th racing day in each calendar year conducted by each licensed corporation, the tax is 4%.

(iii) For the 56th racing day through to the 75th racing day in each calendar year conducted by each licensed corporation, the tax is 3 1/2%.

(iv) For the 76th racing day through to the 95th racing day in each calendar year conducted by each licensed corporation, the tax is 3%.

(v) For the 96th racing day through to the 115th racing day in each calendar year conducted by each licensed corporation, the tax is 2 1/2%.

(vi) For the 116th racing day through to the 150th racing day in each calendar year conducted by each licensed corporation, the tax is 2%.]

(a.1) At the close of each day of racing, all corporations licensed to conduct harness horse race meetings or thoroughbred horse race meetings which annually conduct at least 100 days of racing, or when two licensed corporations conduct their race meetings at the same facility and between them annually conduct at least 175 days of racing, will pay out of the moneys retained on that day under section 221, through the Department of Revenue for credit to the State Horse Racing Fund the following taxes for the time periods stated:

(1) From January 1, 1984 through June 30, 1984 - 3.8%.

(2) From July 1, 1984 through June 30, 1986 - 2.0%.

(3) After June 30, 1986 - 1.5%.

(a.2) Corporations not annually conducting at least 100 days of racing, or 175 days of racing in conjunction with another licensee at the same facility as described above, will pay 2.5% from July 1, 1984 to June 30, 1986, and 2.0% thereafter. This subsection shall not apply if races are not conducted because of an act of God or because of a strike resulting from a labor dispute.

[(vii)] (a.3) For purposes of this section, a racing day shall be considered conducted after the appropriate commission has certified the allocation of racing days to the Secretary of the Department of Revenue under the provisions of section 207(b) even if the racing day is subsequently cancelled by the licensed corporation for reasons beyond its control.

(b) [The State Harness Racing Commission shall make all distributions of moneys from the State Harness Racing Fund. The State Horse Racing Commission shall make all distribution of moneys from the State Horse Racing Fund.] The commissions shall distribute moneys from [their respective funds] the State Racing Fund, together with the interest earned thereon, in the following manner:

(1) One million seven hundred fifty thousand dollars shall be paid from each fund to school districts of the first class, provided, that at least 150 racing days in each calendar year are conducted by licensed corporations that conduct harness horse race meetings within the jurisdiction of a school district of the first class. Any combination of harness horse racing days conducted by licensed corporations in a school district of the first class shall be added together to comply with this 150 racing-day requirement. No school district of the first class shall receive any moneys from these funds, unless the 150 racing-day requirement is met.

(2) An amount equivalent to four-tenths of one percent of the amount wagered each racing day at harness horse race meetings shall be paid by the Harness Racing Commission from the Harness Racing Fund through the Department of Revenue for credit to the Pennsylvania Sire Stakes Fund, beginning on January 1, 1982. This amount shall be increased to seven-tenths of one percent on January 1, 1983 and then finally on January 1, 1984 and thereafter to 1%. These moneys are in addition to the moneys distributed to the Pennsylvania Sire Stakes Fund under subsection (a)(2).

(3) An amount equal to the greater of \$750,000 from each fund or the amount equivalent to one-fourth of one percent of the amount wagered each racing day at thoroughbred horse race meetings and harness horse race meetings shall be paid by each commission, from their respective fund through the Department of Revenue to the Department of Commerce for distribution by the Secretary of Commerce to eligible boroughs having a population of less than 12,000, eligible cities having a population of less than 12,000, eligible townships having a population of less than 12,000, each of their municipality authorities, or county authorities authorized to service the borough or township, for projects providing for the construction, rehabilitation, alteration, expansion or improvement of water facilities, sewage disposal facilities and access roads, in amounts not to exceed 75% of the cost, but not exceeding \$75,000 if in accordance with regulations promulgated by the Secretary of Commerce and approved by the Governor. No distribution shall be made in connection with any project unless it is determined that the project:

(i) is not in conflict with programs of other departments of the Commonwealth;

(ii) is not inconsistent with an existing development plan for the municipality;

(iii) could not otherwise be financed;

(iv) will strengthen the income-producing capability of the municipality, or improve the health and safety of the community;

(v) is necessary to orderly community development; and

(vi) does not involve other State funds. Grants for water facility projects may, however, be used in conjunction with loans made under the act of June 22, 1982 (P.L.577, No.167), entitled "An act amending Title 32 (Forests, Waters and State Parks) of the Pennsylvania Consolidated Statutes, adding provisions relating to water resources projects."

(4)] (1) The salaries of employees of the commission employed by or for it under the provisions of this act and the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929[.]," *net of any income earned or received by the commission.*

[(5)] (2) The payment of the compensation of employees of the Department of Revenue when used in collecting taxes and penalties imposed by this act.

[(6)] (3) The expenses of the Secretary and the Department of Agriculture incurred in administering their duties under this act.

[(7)] (4) To pay all other expenses incurred by the commission in administering this act, *net of any income earned or received by the commission.*

(5) From remaining moneys in the State Racing Fund:

(i) *An amount equivalent to seven-tenths of one percent of the amount wagered each racing day at thoroughbred horse race meetings shall be paid by the Horse Racing Commission from the State Racing Fund through the Department of Revenue for credit to the Pennsylvania Breeding Fund, beginning on July 1, 1983.*

(ii) *An amount equivalent to one and one-half percent of the amount wagered each racing day at harness horse race meetings shall be paid by the Harness Racing Commission from the State Racing Fund through the Department of Revenue for credit to the Pennsylvania Sire Stakes Fund, beginning on July 1, 1983.*

[(8) Eighteen percent of all] (6) *All remaining moneys in the State [Horse Racing and State Harness Racing Funds] Racing Fund shall be paid into [the Pennsylvania Fair Fund and 82% shall be paid into] the General Fund. [Moneys in the Pennsylvania Fair Fund are hereby appropriated to the Department of Agriculture for distribution under section 225.]*

* * *

(d.1) *An amount equivalent to seven-tenths of one percent of the amount wagered at each racing day at thoroughbred and harness horse race meetings as set forth in section 221(a)(4) and (5) shall be paid through the Department of Revenue for credit to the State Racing Fund.*

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Section 4. Sections 223(a) and 224(a) of the act are amended to read:
Section 223. Pennsylvania Breeding Fund.

(a) There is hereby created a restricted account in the State **[Horse]** Racing Fund to be known as the Pennsylvania Breeding Fund which shall consist of the money appropriated under the provisions of section 222 and which shall be administered by the State Horse Racing Commission.

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Section 224. Pennsylvania Sire Stakes Fund.

(a) There is hereby created a restricted account in the State **[Harness]** Racing Fund to be known as the Pennsylvania Sire Stakes Fund which shall consist of the money appropriated under the provisions of section 222 and which shall be administered by the State Harness Racing Commission.

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Section 5. This act shall take effect immediately.

APPROVED—The 30th day of December, A. D. 1983.

DICK THORNBURGH

