

No. 1986-63

AN ACT

SB 1259

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," further providing for the powers and duties of the State Horse Racing Commission and the State Harness Racing Commission; further regulating licensing of racing corporations and individuals involved in racing, handling of funds, and racing employees; further providing for special funds; further providing for allocation of racing days, for the place and manner of conducting pari-mutuel wagering, for the retention percentage and distribution of pari-mutuel pools, for fines and penalties and for the simulcasting and televising of races; placing limitations on day and night racing; making editorial changes; and reestablishing the State Horse Racing Commission and the State Harness Racing Commission.

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

Section 1. Section 102 of the act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act, is amended to read:

Section 102. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Air mile." *A unit of distance equal to 1,852 kilometers or 5,280 feet for purposes of this act.*

"Clean letter of credit." *A letter of credit which is available to the beneficiary against presentation of only a draft or receipt.*

"Commissions." The State Horse Racing Commission and the State Harness Racing Commission.

"Commissioners." The persons appointed by the Governor and confirmed by the Senate who serve on the State Horse Racing Commission or the State Harness Racing Commission and who administer the applicable provisions of this act.

"Evergreen clause." *A term in a letter of credit providing for automatic renewal of the letter of credit.*

"Irrevocable clean letter of credit." *A clean letter of credit which cannot be canceled or amended unless there is an agreement to cancel or amend among all parties to the letter of credit.*

"Licensed corporations." The corporations that have obtained a license from either the State Horse Racing Commission or the State Harness Racing Commission to conduct thoroughbred or harness horse race meetings respectively with pari-mutuel wagering.

“Racetrack.” *The physical facility where a licensed corporation conducts thoroughbred or harness race meetings respectively with pari-mutuel wagering.*

“Simulcast.” *The transmission of live electronically televised video/audio races from the host racetrack to the race track receiving the television transmission.*

Section 2. Sections 201(e), 207(b)(3), 209 and 212 of the act are amended to read:

Section 201. Establishment of the commissions.

* * *

(e) It shall be the duty of the executive secretary to keep a full and faithful record of the proceedings of the commissions, preserve at the general office of the commissions all books, maps, documents and papers entrusted to the executive secretary's care, prepare for service the papers and notices as may be required by the commissions and perform other duties as the commissions may prescribe. It shall be the duty of the executive secretary to keep, at the offices of the commissions, a docket setting forth the names of all stockholders in all corporations licensed under this act, the number of shares held by each stockholder and the date on which each shareholder acquired stock in the licensed corporation. The docket shall be open for public inspection. *It shall be the duty of the executive secretary to appear before the Appropriations Committees of the Senate and the House of Representatives for budgetary review and recommendations.*

* * *

Section 207. Allocation of racing days.

* * *

(b) No more than 125 racing days shall be allocated to each licensed corporation conducting harness horse race meetings in any calendar year. Every corporation shall hold its license under the provisions of section 209. The State Harness Racing Commission shall allocate the racing days in accordance with the following guidelines:

* * *

(3) Upon request the State Harness Racing Commission may grant up to an additional 25 racing days over the 125 racing days to a licensed corporation in each calendar year, *and the commission may grant up to 50 additional days of racing if that corporation is the only corporation operating at the facility*, if racing meet schedules can accommodate these extra racing days [and if each licensed corporation shall have been allocated racing days].

* * *

Section 209. Licenses for horse race meetings.

(a) Any corporation desiring to conduct horse race meetings at which pari-mutuel wagering shall be permitted may apply to the appropriate commission for a license. *The license gives its holder the privilege to conduct horse race meetings at which pari-mutuel wagering is permitted. The license does not give its holder a property right.* If, in the judgment of the appropriate commission, the public interest, convenience or necessity will be served

and a proper case for the issuance of the license is shown, the appropriate commission may issue the license. The license shall remain in effect so long as the licensed corporation complies with all conditions, rules and regulations and provisions of this act. A commission may revoke or suspend the license of any corporation, if the commission finds by a preponderance of the evidence that the corporation, its officers, employees or agents, has not complied with the conditions, rules, regulations and provisions of this act and that it would be in the public interest, convenience or necessity to revoke or suspend the license. *A license is not transferable.*

(b) Every license shall be issued upon **[condition]** *the following conditions:*

(1) **[that every]** *A horse race meeting at which pari-mutuel wagering is conducted [shall be] is subject to the supervision of and to the reasonable rules and regulations prescribed by the appropriate commission[;].*

(2) **[that pari-mutuel]** *Pari-mutuel wagering conducted [shall] is also [be] subject to the supervision of and to the reasonable regulations prescribed by the Department of Revenue. Any license may also be issued upon any other condition that the appropriate commission [shall determine] determines to be necessary or desirable to insure that the public interest, convenience or necessity is served[; and].*

(3) **[that the]** *The corporation can prove by a preponderance of the evidence that it has obtained the use of a facility to conduct horse race meetings. The proof may be demonstrated by documentation of an ownership interest in the facility or by a written lease for use of the facility. For purposes of this [section] paragraph, an ownership interest shall mean that a licensed corporation directly or through a parent or subsidiary has at least a 35% equity interest in the track facility at which it conducts horse race meetings or is the primary tenant at such facility. For purposes of this [subsection] paragraph, a primary tenant shall be that licensed corporation, if any, which is a tenant conducting horse racing meetings at a track facility at which no licensed corporation conducting horse race meetings has directly or through a parent or subsidiary at least a 35% equity interest in such facility, and if there is more than one such tenant at any such facility during the year prior to the year for which dates are requested, then among or between such tenants the primary tenant, if any, shall be designated by agreement among or between those licensed corporations which propose to conduct horse race meetings at the said track facility during the year for which dates are requested.*

(4) *The corporation posts, in favor of the appropriate commission, a bond or irrevocable letter of credit in an amount equal to the sum of the corporation's average weekly payment, during active racing, into the State Racing Fund, as determined by the appropriate commission on the basis of the immediately preceding year, during the year for which dates are requested.*

(5) *The licensed corporation prints in its racing programs the procedure for filing a complaint with the appropriate commission.*

(c) Applications for licenses shall be in the form prescribed by the appropriate commission and shall contain information, material or evidence as the appropriate commission may require. The term "racing week" shall include Sunday at the discretion of the licensed corporation.

(d) In considering an application for a license to a corporation, the commissions may give consideration to the number of licenses already granted. No license shall be granted to any track located within ten miles of a State, county or other political subdivision fair conducting horse racing unless the association, corporation, society, political subdivision or State agency conducting the fair shall affirmatively waive objection to the issuance of the license for dates within the period.

(e) The commissions may refuse to grant, may revoke, or may suspend a license to a corporation, if it shall determine that:

(1) Any officer, director, member or stockholder of the corporation applying for a license or of any corporation which owns stock in or shares in the profits, or participates in the management of the affairs of the applicant, or which leases to the applicant the track where it shall operate:

- (i) has been convicted of a crime involving moral turpitude;
- (ii) has engaged in bookmaking or other forms of illegal gambling;
- (iii) has been found guilty of any fraud or misrepresentation in connection with racing or breeding;
- (iv) has been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction, for which suspension from racing might be imposed in such jurisdiction; or
- (v) has violated any rule, regulation or order of the commissions.

(2) The experience, character or fitness of any officer, director or stockholder of any of the corporations is such that the participation of the person in horse racing or related activities would be inconsistent with the public interest, convenience or necessity or with the best interests of racing. If the commission determines that the interest of any stockholder referred to in this paragraph or in paragraph (1) is insufficient to affect adversely the conduct of pari-mutuel horse racing by the corporation in accordance with the provisions of this act, the commissions may disregard the interest in determining whether or not to grant a license to the corporation.

(3) The applicant is not the owner or the lessee of the track at which it will conduct pari-mutuel horse racing under the license applied for, or that any person, firm, association or corporation other than the applicant shares, or will share, in the profits of the applicant, other than by dividends as a stockholder, or participates, or will participate in the management of the affairs of the applicant.

(4) The corporation does not have the use of a facility to conduct horse race meetings. Such use must be proved by a preponderance of the evidence. The proof may be demonstrated by documentation of an ownership interest in the facility or by a written lease for use of the facility.

(5) **[If the appropriate commission finds that a]** A licensed corporation does not have proof of a written lease of a facility to conduct horse

race meetings[, it]. *Under this paragraph, the appropriate commission may suspend [its] a license for a period of two years. After the expiration of the suspension, the appropriate commission may then revoke the license, if the licensed corporation has failed to contract for a facility at which to conduct horse race meetings.*

(6) A licensed corporation has commingled horsemen's funds in violation of section 235(c) or has refused to place on deposit a letter of credit under section 236.

(f) The commissions shall also have power to refuse to grant, revoke or suspend a license:

(1) To any corporation, the charter or certificate of incorporation of which shall fail to contain a provision requiring any stockholder, upon written demand of the corporation, to sell his stock to the corporation at a price to be fixed by the appropriate commission, provided the demand be made pursuant to written direction of the appropriate commission and from the date of the making of the demand prohibiting the transfer of the certificate of stock except to the corporation.

(2) To any corporation which, having been a licensee, has failed, in the opinion of the appropriate commission, to properly maintain its track and plant in good condition or has failed to make adequate provision for rehabilitation and capital improvements to its track and plant.

(g) Pending final determination of any question under this section, the commissions may issue a temporary license upon such terms and conditions as they see fit to effectuate the provisions of this act.

(h) The commissions shall have power to direct that every certificate of stock of a licensed corporation shall bear a legend, plainly and prominently imprinted upon the face of the certificate, reading: "This certificate of stock is transferable only subject to the provisions of the 'Race Horse Industry Reform Act'." The provisions of this subsection shall not apply to stock heretofore issued by a licensed corporation under the provisions of the act of December 11, 1967 (P.L.707, No.331), as amended, and referred to as the Pennsylvania Thoroughbred Horse Racing Law or of the act of December 22, 1959 (P.L.1978, No.728), as amended, and referred to as the Pennsylvania Harness Racing Law.

Section 212. Officials at horse race meetings.

(a) At all thoroughbred horse race meetings licensed by the State Horse Racing Commission, qualified [stewards,] judges and starters shall be approved by the commission. These officials shall enforce the rules and regulations of the State Horse Racing Commission and shall render written reports of the activities and conduct of such race meetings to the State Horse Racing Commission. The compensation of these judges and starters shall be paid by the corporation conducting the race meeting.

(b) At all harness race meetings licensed by the State Harness Racing Commission, qualified judges and starters shall be approved by the commission. No person shall be approved as a judge or starter unless he is licensed by the United States Trotting Association as a duly qualified pari-mutuel race meeting official. The officials shall enforce the rules and regulations of

the State Harness Racing Commission and shall render regular written reports of the activities and conduct of the race meetings to the State Harness Racing Commission. The compensation of the presiding judge and two associate judges at each race track shall be fixed and paid by the State Harness Racing Commission. The commission shall adopt a selection process to approve the appointment of these officials. The licensed corporations shall participate in this selection process for approval of these officials.

Section 3. Section 213 of the act, amended December 30, 1983 (P.L.400, No.93), is amended to read:

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. *The license gives its holder a privilege to engage in the specified activity, but the license does not give its holder a property right. Licenses are not transferable.* 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 State Racing Fund. The application shall be in the form and contain the information as each commission may require. *Applicants must have their fingerprints taken or have fingerprint records on file with the respective commission, the Federal Bureau of Investigation, the State Police or any other organization recognized by the respective commission as part of the background investigation. Each commission may exempt applicants from the fingerprint requirement for positions not related to the care or training of horses, racing, wagering, security or the management operations of the racing corporation or racetrack.* All licenses [may] shall be issued for [more than a one year term.] *three-year terms and shall be automatically renewed, upon payment of the required fee, unless subsection (f) applies. Each commission may establish a temporary license and fee valid for four months within a twelve-month period. No applicant, however, may receive more than one temporary license within 12 months of the issuance of his or her preceding temporary license.* 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 *that provides for approximately one-third of the licenses to be renewed each year.* The commissions shall fix the manner by which licenses are processed and issued by rule or regulation.

(b) All commissioners and all employees, agents and representatives of the commissions shall be licensed under this act. There shall be no fee for this license. The commissions shall fix by rule or regulation the manner in which these licenses under this subsection shall be processed and issued.

(c) If the commissions find that the experience, character and general fitness of the applicant are such that the participation of the person in horse race meets is consistent with the public interest, convenience and necessity,

and with the best interests of racing generally in conformity with the purposes of this act, it may grant a license.

(d) The commissions may refuse to issue a license under this section, if they shall find that the applicant:

- (1) Has been convicted of a crime involving moral turpitude.
- (2) Has engaged in bookmaking or other form of illegal gambling.
- (3) Has been found guilty of any fraud or misrepresentation in connection with racing or breeding.
- (4) Has been found guilty of any violation or attempt to violate any law, rule or regulation of racing in any jurisdiction, for which suspension from racing might be imposed in that jurisdiction.
- (5) Has violated any rule, regulation or order of the commissions.

(e) Each commission shall have the right to inspect all contracts between licensed corporations and vendors for goods and services. Each commission shall require by rule or regulation that vendors disclose to the appropriate commission all principal officers and a description of their interests in the vendors' business. Failure to properly disclose this information shall constitute grounds to deny, to revoke or to suspend any vendor's license issued under the provisions of this act.

(f) The commissions may suspend, *refuse to renew* or revoke a license issued under this section, if it shall determine that:

- (1) The applicant or licensee:
 - (i) has been convicted of a crime involving moral turpitude;
 - (ii) has engaged in bookmaking or other form of illegal gambling;
 - (iii) has been found guilty of any fraud in connection with racing or breeding;
 - (iv) has been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction for which suspension from racing might be imposed in that jurisdiction; **[or]**
 - (v) **[who]** has violated any rule, regulation or order of the commissions; *or*
 - (vi) *has been convicted of a felony offense related to the use, possession or sale of drugs or alcohol.*

(2) That the experience, character or general fitness of any applicant or licensee is such that the participation of the person in horse racing or related activities would be inconsistent with the public interest, convenience or necessity or with the best interests of racing.

(g) Pending final determination of any question under this section, the commissions may issue a temporary license upon such terms and conditions as they may deem necessary or proper to effectuate the provisions of this act.

(h) The commissions may suspend a license under subsection (f) pending a hearing on the matter. The hearing must take place within ten days of the suspension.

(i) The commissions shall not grant licenses to citizens of states that do not grant licenses to citizens of this Commonwealth on the basis of in-state preference.

Section 4. Section 214(b) of the act is amended to read:

Section 214. Power of commissions to impose fines and penalties.

* * *

(b) No officer or employee of a licensed corporation or their spouses, parents, fathers-in-law, mothers-in-law, sons, daughters, sons-in-law or daughters-in-law shall have any direct or indirect interest in a race horse that is participating in a race at a meet at which such person or heretofore-mentioned relative holds any interest in the licensed corporation conducting the meet and/or the track facility. An officer or employee of a licensed corporation or their spouses, parents, fathers-in-law, mothers-in-law, sons, daughters, sons-in-law or daughters-in-law may have an interest in a race horse and enter it at meets that are conducted by licensed corporations or at race tracks in which such a person or heretofore-mentioned relative holds no direct or indirect interest. Each commission shall impose a fine or penalty upon any person for violation of this subsection as provided for under subsection (a). For purposes of this subsection an interest shall not include:

(1) any breeder's fund award as a result of a horse being a registered Pennsylvania-bred thoroughbred horse under the provisions of section 223; and

(2) any interest in a licensed corporation *or track facility* that was held by a person, partnership, association or corporation on or before [December 22, 1973] *January 1, 1988*.

Section 5. The act is amended by adding a section to read:

Section 218-A. Wagering at nonprimary locations.

(a) Notwithstanding any other provisions of this act to the contrary, licensed corporations shall not be authorized to provide live telecasts of races to any locations open to the public which are not primary to or contiguous with the licensed corporation's racetrack and at which telephone account wagering is also conducted and shall not be permitted to establish or utilize master accounts or transfer accounts for telephone account wagering or to accept credit or debit card telephone account wagers or any other form of electronic signal transmissions unless:

(1) after completion of the 1986 racing season, such activities are conducted pursuant to regulations adopted by the appropriate racing commission and approved pursuant to the act of June 25, 1982 (P.L. 633, No. 181), known as the "Regulatory Review Act"; or

(2) during the 1986 racing season, any such activities are limited to areas, accounts and credit arrangements for which applications are submitted to the appropriate commission prior to June 1, 1986, and which are subsequently approved by the respective commission after appropriate investigation and review.

(b) Regulations authorizing activities subject to the moratorium provided by subsection (a) shall not be published for Notice of Proposed Rule-making until completion of the evaluation as required by subsection (c). Nothing in this section shall be construed to expand or enlarge any regulatory authority otherwise conferred upon the respective commissions by this act.

(c) The commissions shall jointly conduct an evaluation of the use of telephone account wagering, including the use of master accounts, transfer accounts, credit or debit cards, any other form of electronic signal transmission and live telecasting to or from areas open to the public not primary to or contiguous with a racetrack. The evaluation shall consider whether such activities are in the public interest and are beneficial to racing and shall recommend, if such activities are deemed desirable by the commissions, appropriate rules and regulations for the conduct of such activities: Provided, That a licensed corporation shall not be permitted to conduct pari-mutuel wagering at any location which is within the primary market area of another licensed corporation, as defined in section 102 and section 218(e). The evaluation shall also recommend whether any enlargement or modification to the laws regulating such activities is necessary or desirable. In performing the evaluation, the commissions shall study in detail experimental activities authorized by the commissions, including an analysis of the impact of conducting such activities at each experimental site approved by the commissions. The evaluation is to be completed by October 31, 1986, with copies of the commissions' report being forwarded, within two weeks of that date, to the Governor, the President pro tempore of the Senate, the Speaker of the House, the Chairman of the Senate State Government Committee and the Chairman of the State Government Committee of the House of Representatives. The evaluation shall include, but not be limited to, an investigation and study of the following matters:

(1) Which laws permit or prohibit the use of telephone account wagering in coordination with live telecasting to public locations and the utilization of transfer accounts, master accounts, credit or debit cards or other forms of electronic signal transmissions for pari-mutuel wagering at such locations.

(2) In situations where such activities occur at premises licensed by the Liquor Control Board to serve alcoholic beverages, whether such activities violate any portion of the act of April 12, 1951 (P.L.90, No.21), known as the "Liquor Code."

(3) The financial viability of live telecasting to public locations, together with the use of telephone account wagering, transfer accounts, electronic signal transmissions, or credit or debit card wagering, including the benefits or disadvantages for the commissions, the licensed racing corporation, horsemen and the general public.

(4) The local and Statewide community, fiscal and social impact of such wagering activities at public locations.

(5) An analysis of the commissions' ability to properly regulate and control such wagering at public locations in order to protect the public and the integrity of the racing industry.

(6) The ability of the commissions to investigate the background of individuals owning or having an interest in premises upon which such wagering takes place.

(7) Patron betting behavior and satisfaction or abuse of telephone account wagering, transfer accounts, credit or debit cards or other forms

of electronic signal transmissions for the purpose of pari-mutuel wagering.

(8) What types of promotional activities have taken place by the racing corporation or particular wagering sites to encourage such wagering and what types of promotional activities are proper and appropriate.

(9) What types of reporting procedures and records have been and should be required from the licensed racing corporation and individual wagering sites so as to assure all revenues are accounted for and winners names are filed with the proper taxing authorities.

(10) What minimum requirements with regard to physical structures, facilities, equipment, security and public health and safety are necessary and appropriate for locations at which such wagering occurs.

(d) As used in this section "public locations" are deemed to be areas open to the public and shall include all types of commercial establishments, whether open to the public at large or any segment of the public.

Section 6. Section 221(a) of the act, amended December 30, 1983 (P.L.400, No.93), 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 and seven-tenths percent~~ *twenty 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 ~~25.7%~~ *26%* 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%, 19% or ~~19.7%~~ *20%* of the moneys in the wagering pools under paragraphs (2), (3) and (4) or less than ~~25.7%~~ *26%* 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.

* * *

Section 7. Section 222(a.1) and (d.1) of the act, added December 30, 1983 (P.L.400, No.93), are amended and the section is amended by adding subsections to read:

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

* * *

(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%, *except as provided in subsection (a.4).*

* * *

(a.4) Any corporation which does not hold a license under section 209 on the effective date of this act and which is granted a license under this act shall be subject to payment out of moneys retained under section 221, through the Department of Revenue for credit to the State Horse Racing Fund, of the following tax for a period of four years from the issuance date of the license - 1.0%, at which time said licensee shall be subject to the lawful rate then in effect under subsection (a.1)(3).

(a.5) In order to qualify for the 1.0% tax rate authorized under subsection (a.4), the newly licensed corporation may not include any officer, director or the immediate relative (spouse, children or parents) of any officer or director of any licensed racing corporation which conducted, at any time within the immediately preceding five years, any horse or harness race meetings at the racetrack enclosure for which the license is sought. Also, the newly licensed corporation may not include any shareholder (or their immediate relative) holding a 5% or greater interest who also held a 5% or greater interest in any corporation licensed at any time within the immediately preceding five years to conduct horse or harness race meetings at the racetrack enclosure for which the license is sought.

* * *

(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.

* * *

Section 8. Sections 223 and 224 of the act, amended December 30, 1983 (P.L.400, No.93), are amended to read:

Section 223. Pennsylvania Breeding Fund.

(a) There is hereby created a restricted account in the State 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.

(b) After the deduction of expenses related to the administration and development of the Pennsylvania Breeding Fund program incurred by the Pennsylvania Horse Breeders' Association, the State Horse Racing Commission shall, by rule or regulation, provide for awards as follows:

(1) An award of *30% of the purse earned by every registered Pennsylvania-bred thoroughbred horse sired by a registered Pennsylvania sire at the time of conception of the registered Pennsylvania-bred thoroughbred horse, or an award of 20% of the purse earned by every registered Pennsylvania-bred thoroughbred horse sired by a nonregistered sire*, which finishes first, second or third in any race conducted by a licensed corporation under this act shall be paid to the breeder of said registered Pennsylvania-bred thoroughbred horse. *A single award under this paragraph may not exceed 1% of the total annual fund money.*

(2) An award of 10% of the purse earned by any Pennsylvania-bred thoroughbred horse which finishes first, second or third in any race conducted by a licensed corporation under this act shall be paid to the owner of the registered Pennsylvania sire which regularly stood in Pennsylvania at the time of conception of said Pennsylvania-bred thoroughbred horse. *A single award under this paragraph may not exceed .5% of the total annual fund money.*

(3) An award of 10% of the purse earned by any registered Pennsylvania-bred thoroughbred horse which finishes first in any race conducted by a licensed corporation under this act not restricting entry to registered Pennsylvania-bred thoroughbred horses shall be paid to the licensed owner of said registered Pennsylvania-bred thoroughbred horse at the time of winning. *A single award under this paragraph may not exceed .5% of the total annual fund money.*

(c) Up to one-fifth of the total of the estimated fund moneys remaining each year after the deduction of expenses related to the administration and development of the Pennsylvania Breeding Fund program and the payment of breeder, stallion and owner awards, shall be divided among the licensed corporations that conduct thoroughbred horse race meetings in direct proportion to the rate by which each licensed corporation generated the fund moneys during the previous year to be used solely for purses for Pennsylvania Breeding Fund stakes races which restrict entry to registered Pennsylvania-bred thoroughbred horses.

(d) The fund moneys remaining following disbursements as directed in subsection (b)(1), (2) and (3) and subsection (c) shall be divided among the licensed corporations that conduct thoroughbred horse race meetings in direct proportion to the rate by which each licensed corporation generated the fund moneys during the previous year to be used for purses as follows:

(1) Claiming and nonclaiming Pennsylvania Breeding Fund races which restrict entry to registered Pennsylvania-bred thoroughbred horses.

(2) Claiming and nonclaiming Pennsylvania Breeding Fund races which prefer registered Pennsylvania-bred thoroughbred horses as starters. In these races, should eight or more registered Pennsylvania-bred horses pass the entry box, the race shall be considered closed to horses other than registered Pennsylvania-bred thoroughbred horses.

(e) Those Pennsylvania Breeding Fund moneys due licensed corporations as outlined in subsections (c) and (d) but not expended during the calendar year may be carried forth in the fund on the account of said licensed corporations to be expended during the succeeding year in addition to said corporations' fund moneys annually due them for purses.

(f) The Pennsylvania Breeding Fund Advisory Committee, under the jurisdiction of the State Horse Racing Commission, is hereby established and shall be part of the Pennsylvania State Horse Racing Commission. The commission shall consist of five members, all of whom shall be residents of Pennsylvania, to be appointed by the commission by June 1 of each year. The committee shall consist of two members of the Pennsylvania Horse Breeders' Association, one member from the licensed corporations, one member from the association representing horsemen racing in Pennsylvania and one member of the commission. If any member other than the commission member has not been recommended by June 1 of each year, the commission shall make an appointment for the organization failing to so recommend a member of the committee. The committee shall assist and advise the commission under the provisions of this act but shall have no power in administering the fund. The members of the committee shall receive no compensation for their services as members.

(g) The State Horse Racing Commission may contract with the Pennsylvania Horse Breeders' Association as the sole responsible body for the registration and records of Pennsylvania-breds. The Pennsylvania Horse Breeders' Association shall advise the commission when called upon and shall determine the qualifications for Pennsylvania-bred thoroughbred horses and Pennsylvania sires. Its registration and record facts are hereby declared as official Pennsylvania records. At the close of each calendar year, the Pennsylvania Horse Breeders' Association, through the Pennsylvania Breeding Fund Advisory Committee, shall submit to the commission for its approval an itemized budget of projected expenses for the ensuing year relating to the administration and development of the Pennsylvania Breeding Fund program. The commission, on no more than a quarterly basis, shall reimburse from the fund the Pennsylvania Horse Breeders' Association for those expenses actually incurred in the administration and development of the Breeding Fund program.

Section 224. Pennsylvania Sire Stakes Fund.

(a) There is hereby created a restricted account in the State 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.

(b) **[After]** *In the calendar year 1986 and thereafter, after deduction of sufficient funds to cover the State Harness Racing Commission's cost of administration, [85%] 80%, unless a smaller percentage is necessary in order to comply with the minimum dollar requirement of subsection (e), of all remaining moneys in the Pennsylvania Sire Stakes Fund shall be divided [among the licensed corporations that conduct harness horse race meetings.], subject to the approval of the State Harness Racing Commission, among the licensed corporations that conduct harness horse race meetings. One-fifth of this amount shall be allocated to each licensed corporation. If there is an excess of money due to the restrictions imposed by this subsection, the amount not allocated to licensed racing corporations shall remain in the fund, together with the interest earned on that money, notwithstanding the provisions of subsection (f).* Each licensed corporation shall divide the funds received equally for each of:

(1) four two-year-old races; one pace for colts, one pace for fillies, one trot for colts and one trot for fillies; and

(2) four three-year-old races; one pace for colts, one pace for fillies, one trot for colts and one trot for fillies.

(c) Each allotment shall provide purse money for the respective races. The purse money shall be in addition to any entry fees or other funds available.

(d) Entry for these races shall be limited to harness horses which were sired by a standardbred stallion regularly standing in Pennsylvania and each race shall be designated a Pennsylvania sire stakes race. The State Harness Racing Commission shall make the provisions and regulations as it shall deem necessary for the proper administration of the entry restriction.

(e) The remaining moneys in the Pennsylvania Sire Stakes Fund up to a total of and not exceeding \$20,000 for each agricultural fair *and one- or two-day events as defined in harness racing commission regulations* shall be divided equally among those agricultural fairs *and one- or two-day events, not to exceed more than five one- or two-day events per year and as authorized by the State Harness Racing Commission, provided that no more than two one-day or two-day events per county are authorized unless, after a date established by the commission, all five of the events have not been allocated,* conducting harness horse races for two-year-old and three-year-old harness horses: Provided, however, That in no event shall less than \$225,000 be allocated from the Pennsylvania Sire Stakes Fund and be divided equally among those agricultural fairs *and one- or two-day events* conducting these races. Each fair *or one- or two-day events* receiving the funds shall divide the total amount equally among all eligible races for two-year-old and three-year-old harness horses and shall apply the funds solely as additional purse funds. Only races to which entry is restricted to Pennsylvania-sired horses shall be eligible. The State Harness Racing Commission shall make the provisions and regulations as it shall deem necessary for the proper administration of **[the eligibility restriction]** *all racing provided for in this subsection.*

(f) The fund moneys remaining following disbursements as directed in paragraphs (1), (2) and (3) of subsection (b) and subsections (c), (d) and (e)

shall, *except as provided in subsection (b)*, be divided among *active* licensed corporations that conduct harness horse race meetings under this act in direct proportion to the rate by which each licensed corporation generated the fund moneys during the previous year **[to]**. *The fund moneys so divided shall* be used for purses as follows:

(1) Claiming and nonclaiming Pennsylvania Fund races which restrict entry to registered Pennsylvania-sired harness horses.

(2) Claiming and nonclaiming Pennsylvania Fund races which prefer registered Pennsylvania-sired harness horses as starters. In these races, should seven or more registered Pennsylvania-sired harness horses pass the entry box, the race shall be considered closed to horses other than registered Pennsylvania-sired harness horses.

Section 9. Sections 225(b)(3) and (4) and 229 of the act are amended to read:

Section 225. Pennsylvania Fair Fund.

* * *

(b) The Secretary of Agriculture shall distribute the moneys in the Fair Fund, annually, on or before March 1 in the following manner:

* * *

(3) For reimbursement for each county agricultural society and each independent agricultural society conducting harness horse racing during its annual fair other than races for two and three-year old colts and fillies which races are provided for in paragraph (4), an amount of money equal to that used during their annual fair as purse money for harness horse racing, track and stable maintenance, starting gate rental and the cost of all harness horse racing officials required during their annual fair, but not more than **[\$10,000] \$13,000**, a minimum of **[one-third] \$4,000** of which must be used for purse money.

(4) For reimbursement for each county agricultural society and independent agricultural society conducting races for two and three-year old colts and fillies, at their annual fair on which a maximum of **[\$5,600] \$7,600** was paid annually. Entrance fees collected for each such race shall not be included when computing the amount distributed by the Secretary of Agriculture under this subsection.

* * *

Section 229. State horse racing veterinarians and State **[steward] stewards**.

(a) The State Horse Racing Commission shall appoint and employ licensed veterinarians and **[a steward] stewards** to serve as the horse racing veterinarians and State **[steward] stewards** for horse racing, respectively, at each meeting conducted by a corporation licensed by the State Horse Racing Commission. The State Horse Racing Commission shall have the authority to employ other individuals as shall be necessary to carry out the responsibilities of this section.

(b) The costs and compensation of the horse racing veterinarians, State **[steward] stewards** and other individuals employed shall be fixed and paid by the State Horse Racing Commission.

(c) The State Horse Racing Commission shall establish a job description and professional criteria for stewards to assure that they have a working knowledge of the horse racing industry.

Section 10. Section 234 of the act, amended April 18, 1985 (P.L.4, No.3), is amended to read:

Section 234. Simulcasting.

[The State Harness Racing Commission may, upon request from a licensed corporation, grant permission to any corporation to simulcast intrastate harness racing at a facility at which less than 80 days of racing was conducted in the previous calendar year. Neither the racing facility or licensed corporation at such facility shall transmit any simulcast signal to any other racing facility. Simulcasts are to be operated by the licensed corporation at the racetrack enclosure where a harness race meeting is being conducted during, between, before or after posted races for that racing day. No more than 50% of the races conducted each week (Monday through Sunday) shall be simulcast. All forms of pari-mutuel wagering described in section 221 shall be allowed on races to be televised by simulcasting under this section. The State Harness Racing Commission may promulgate regulations on wagering and the operation of these races. All money wagered by patrons on these races shall be computed in the amount of money wagered each racing day for purposes of taxation under section 222.]

The State Horse Racing Commission and the State Harness Racing Commission may permit intrastate simulcasting between two licensed corporations when each schedules 95% of the racing days it initially scheduled in 1986 and the average number of live races per race day must be equal to 90% of the average number of live races conducted per day in 1985, subject to any actions or activities beyond the control of the licensee; and, as to each corporation or any corporation conducting racing at the same location as the sending or receiving racetrack, such intrastate simulcasting shall not be permitted unless each or any corporation schedules 95% of the racing days initially scheduled in 1986 and the average number of live races per race day must be equal to 90% of the average number of live races conducted per day at that location in 1985, subject to any actions or activities beyond the control of the licensee at these locations. For licensed corporations that did not schedule racing days in 1986 or thereafter, the respective commissions may permit intrastate simulcasting when the licensed corporation schedules a minimum of 80 racing days in a calendar year. For purposes of this section a racing day shall consist of a minimum of eight live races, except at thoroughbred tracks on Breeders' Cup Event Day. For any licensed racing corporation engaged in simulcasting, regardless of location or distance from another licensed racing corporation, there shall exist a written agreement with the horsemen's organization representing a majority of the owners and trainers at both the sending and receiving racetracks. If no agreement can be reached, then the licensed corporation may petition the court of common pleas in the county in which the licensed corporation racetrack is located, which may, upon good cause shown by the licensed corporation that failure to consent would be detrimental to the Pennsylvania racing industry, direct the organi-

zation representing the horsemen to approve the simulcast agreement. The respective commission may then authorize the simulcasting, if, in the opinion of the appropriate commission, such simulcasting will have significant value to the Pennsylvania racing industry. The simulcast signal shall be encoded, and the racetrack receiving the simulcast signal shall not send this signal anywhere other than public locations authorized under section 218 or 218-A. All forms of pari-mutuel wagering described in section 221 shall be allowed on races to be televised by simulcasting under this section. The State Horse Racing Commission and the State Harness Racing Commission may promulgate regulations on wagering and the operation of these races. All money wagered by patrons on these races shall be computed in the amount of money wagered each racing day for purposes of taxation under section 222. Any corporation that does not schedule the required number of racing days, as set forth in this section, shall not be permitted to simulcast the following year. In the event the simulcast is between a thoroughbred racetrack and a harness racetrack, both commissions shall have jurisdiction, and any approval required hereunder must be received from both commissions: Provided, however, That if no agreement can be reached between the horsemen's organization aforementioned, then the licensed corporation may petition the court of common pleas in the county in which the licensed corporation racetrack is located, which may, upon good cause shown by the licensed corporation that failure to consent would be detrimental to the Pennsylvania racing industry, direct the organization representing the horsemen to approve the simulcast agreement. The respective commissions may then authorize the simulcasting if, in the opinions of the respective commission, such simulcasting will have a significant value to the Pennsylvania racing industry.

Section 11. The act is amended by adding sections to read:

Section 235. Commingling.

(a) *This section shall be applicable only to licensed thoroughbred racing corporations.*

(b) *The race secretary shall receive entries and declarations as an agent for the licensed corporation for which the race secretary acts. The race secretary or an individual designated by the licensed corporation may receive stakes, forfeits, entrance money, jockey's and other fees, purchase money in claiming races and other money that can properly come into his possession as an agent for the licensed corporation for which the race secretary or designee is acting.*

(c) *A licensed corporation shall maintain a separate account, called a Horsemen's Account. Money owing to owners in regard to purses, stakes, rewards, claims and deposits shall be deposited into the Horsemen's Account. Funds in the account shall be recognized and denominated as being the sole property of owners. Deposited funds may not be commingled with funds of the licensed corporation unless a licensed corporation has established, in favor of the organization which represents a majority of the owners and trainers racing with the licensed corporation, an irrevocable clean letter of credit with an evergreen clause. The minimum amount of the credit must*

be the greater of \$1,000,000 or 110% of the highest monthly balance in the Horsemen's Account in the immediate prior year. To calculate the monthly balance in the Horsemen's Account, the sum of the daily balances shall be divided by the number of days in the month. The evergreen clause provide that, 30 days prior to the expiration of the letter of credit, the financial institution can elect not to renew the letter of credit; that, upon this election, the financial institution must notify the designee of the organization which represents a majority of the owners and trainers racing with the licensed corporation, by registered mail, return receipt requested, of the election not to renew; and that the financial institution will honor the letter of credit for six months after expiration. Purse money earned by owners shall be deposited by the licensed corporation in the Horsemen's Account within 48 hours after the result of the race in which the money was earned has been declared official and the purse has been released by the commission.

(d) A licensed corporation shall designate a bookkeeper who is authorized to receive and disburse funds from the Horsemen's Account. The bookkeeper must be bonded to provide indemnity for malfeasance, nonfeasance and misfeasance. A certified copy of the bond shall be filed with the commission.

(e) The Horsemen's Account and the investment and deposit schedules relating to the account are subject to examination, at reasonable times, by a designee of the organization which represents a majority of the owners and trainers racing with the licensed corporation and by the commission. The bookkeeper shall provide each owner with access, at reasonable times during a racing day, to the amount of funds in the Horsemen's Account credited to that owner. At the close of a race meeting, the bookkeeper shall mail to each owner a record of deposits, withdrawals and transfers affecting the amount of funds in the Horsemen's Account credited to that owner.

(f) The Horsemen's Account shall be audited periodically as deemed appropriate by the commission. There shall be at least one audit per year. Monthly statements shall be provided to the designee of the organization which represents a majority of the owners and trainers racing with the licensed corporation.

(g) Fifty percent of the money earned as interest on funds in the Horsemen's Account shall be paid to the organization which represents a majority of the owners and trainers racing with the licensed corporation on a weekly basis. This amount shall be for the benefit of the horsemen as determined by the organization which represents the majority of the owners and trainers racing with the licensed corporation. The remaining 50% of the interest earned shall be for the benefit of the licensed corporation which shall have the responsibility to fund all costs associated with the administration of the fund. Interest each month must be earned in an amount equal to the Federal Reserve Discount Rate on the first day of the month.

Section 236. Harness racing purse moneys.

Each licensed harness horse racing association must place on deposit with the State Harness Racing Commission by March 1 of each year an irrevocable letter of credit equivalent to its average weekly purse total from the

immediate prior year. The commission shall hold the letter of credit in trust for the harness horsemen racing at that licensed corporation in the event that purse checks are not issued or that insufficient funds are available to cover the purse checks.

Section 237. Limitations on day and night racing.

(a) For the purpose of this section day racing shall be racing days for which the starting time for the first race is at or before 2:00 p.m., and night racing shall be racing days for which the starting time for the first race is after 5:00 p.m. Day racing may not be conducted at any racing facility after 1985 on any comparable type racing day or holiday on which day racing was not conducted in 1985 unless all presently operating licensed corporations conducting day racing agree, in writing, to allow such day racing activities.

(b) Night racing may not be conducted at any racing facility after 1985 on any comparable type racing night or holiday on which night racing was not conducted in 1985 unless all presently operating racing facilities conducting night racing agree, in writing, to allow night racing activities.

(c) Each appropriate commission shall have the authority to grant exceptions to this section upon application by a licensed racing corporation for not more than five racing days per calendar year with respect to each licensed corporation. The provisions of this section shall be effective until July 1, 1991.

Section 12. Section 302 of the act is amended to read:

Section 302. Establishment of the Pennsylvania Race Horse Testing [Laboratory] Program.

(a) There is hereby established the Pennsylvania Race Horse Testing [Laboratory] Program. The [laboratory] program shall be administered by a management committee composed of the two chairpersons of the commissions [and], the Secretary of Agriculture and two persons appointed by the Governor. One person appointed by the Governor must be a doctor of veterinary medicine or a veterinary medical doctor and a member of the faculty of a school of veterinary medicine located within this Commonwealth and the other person must be employed within the private sector and have a background in biological and/or chemical laboratory management. The [laboratory] program is placed in and made a part of the Department of Agriculture. All costs of the [laboratory] program shall be paid by the commissions. [The] Subject to all provisions of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," that apply to the department, the management committee shall appoint and direct all personnel as necessary, establish a facility or contract for the provision of testing services, acquire all necessary equipment and supplies and adopt all necessary procedures.

(b) The purposes of the Pennsylvania Race Horse Testing [Laboratory] Program are to analyze samples for the presence in race horses of any medication, to develop techniques, equipment and procedures, to collect and test for the presence of medication in race horses, to ascertain permitted tolerance levels or therapeutic dose allowances for medication, to offer consultation and advice to the public on all issues regarding the medication of race horses and to conduct research in medication issues involving race horses.

(c) In order to evaluate the effectiveness of testing services performed by personnel of the Department of Agriculture and determine whether the manner in which these services are provided, the tests utilized and tolerance levels permitted should be modified, the commissions shall equally fund a contracted evaluation of existing laboratory services to be conducted by a nongovernmental entity with documented expertise to accurately evaluate existing laboratory services and formulate recommendations for improvement of the testing program. Upon review of the evaluation results, the department may implement in consultation with the management committee a program to improve laboratory services, including, if necessary and appropriate, the selection of a contractor or contractors to provide testing services. This study shall be completed on or before January 1, 1987, and copies provided to the Governor, the President pro tempore of the Senate, the Speaker of the House of Representatives and the members of the State Government Committees of the Senate and the House of Representatives within 15 working days.

Section 13. The State Horse Racing Commission and the State Harness Racing Commission shall, by regulation, adjust license fee schedules to reflect the three-year terms under section 2 of this act. Under these regulations, licensees who have their licenses revoked and suspended shall not be eligible for complete or proportionate refund of the license fees. All other fees in effect on the effective date of this act, and not inconsistent with this act, shall remain in effect until repealed or amended in the manner provided by law.

Section 14. Each rule and regulation of a commission in effect on the effective date of this act shall remain in effect after such date until amended by the commission, provided that the commission shall immediately initiate the repeal or amendment of any rule or regulation which is inconsistent with the provisions of this act.

Section 15. The presently confirmed members of the State Horse Racing Commission and the State Harness Racing Commission, as of the effective date of this act, shall continue to serve as commission members until their present terms of office expire, provided that any present member whose term has expired on or before the effective date of this act shall serve until a successor has been appointed and qualified, but no longer than six months after the effective date of this act.

Section 16. This act, with respect to the State Horse Racing Commission and the State Harness Racing Commission, constitutes the legislation required to reestablish an agency under the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 17. The single-agency requirement of section 7(a)(2) of the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act, does not apply to this act.

Section 18. (a) This section, sections 14, 15, 16 and 17 of this act and sections 207(b)(3), 218-A, 222, 224 and 225(b)(3) and (4) of the act shall take effect immediately.

- (b) Section 235(a) through (e) of the act shall take effect in six months.
- (c) The remainder of this act shall take effect in 60 days.

APPROVED—The 16th day of May, A. D. 1986.

DICK THORNBURGH