

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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1987 DEC 18 PM 3:53

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Racing Commission TITLE NUMBER: 178

CITE AUTHORITY WV Code 19-23-6 (a) (3)

AMENDMENT TO AN EXISTING RULE: YES NO

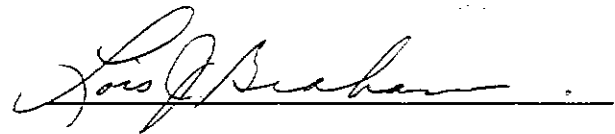
IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 1

TITLE OF RULE BEING AMENDED: Thoroughbred

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



(a) The "Perfecta" form of wagering may be permitted by permission of the Commission upon application of the licensee.

(b) The "Perfecta" is a contract by the purchaser of a ticket combining two (2) horses in a single race, selecting the two (2) horses that will subsequently finish first and second in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(c) The "Perfecta" is not a parlay and has no connection with or relation to the win, place and show betting and will be calculated as an entirely separate pool.

(d) In the event no ticket is sold on the winning combination of a perfecta pool, the net pool shall be apportioned equally between those having selected the winner and those having selected the horse finishing second in the same manner in which a place pool is calculated.

(e) In case of a dead heat between two (2) horses for first place, the net perfecta pool shall be calculated as a place pool to holders of tickets of the winning combination(s). In case of a dead heat between two (2) horses for second place, the perfecta pool shall be calculated as a place pool, the holders of tickets combining the winning horse and the two (2) horses finishing second participating in the pay off.

(f) In the event of any entry finishing first and second, the net exacta or perfecta pool shall be distributed to holder of tickets combining the entry with the horse finishing third.

(g) If a horse(s) in a race on which there is perfecta wagering is excused by the stewards, all moneys wagered on combinations which include this horse shall be deducted from the perfecta pool and refunded to the purchaser of tickets on the horse(s).

(h) If no ticket is sold that would require distribution of a perfecta pool, the Association shall make a complete and full refund of perfecta pool.

60.28—"Big" or "Twin"-perfecta-wagering:

(a) The "Big Perfecta" is a form of pari-mutuel wagering in which the better selects two (2) horses, that will finish first and second in each of two (2) races in the exact order as officially posted.

(b) "Big Perfecta" tickets shall be sold only at "Perfecta" windows by the licensee and only from automatic-double-issue-machines.

(c) Each better purchasing "Big Perfecta" tickets shall designate his two (2) selections as the first two (2) horses to finish in that order in the first race of the two (2)-designated-races.

(d) After the official declaration of the first two (2) horses to finish in the first race of the "Big Perfecta," each better holding a ticket combining the first two (2) horses in the exact order of finish must, prior to the running of the second "Big Perfecta" race exchange such winning tickets for a "Big Perfecta" exchange ticket at the "Perfecta" windows and at such time shall select the two (2) horses to finish in the second race of the "Big Perfecta" in the exact order as officially posted. No further money shall be required of the holder of the ticket in order to make the exchange.

(e) No "Big Perfecta" exchange ticket upon the second race shall be issued except upon the surrender of the "Big Perfecta" ticket from the first race as described in these rules. The "Big Perfecta" pool obtained from the sales of "Big Perfecta" tickets upon the first race shall be held, subject to these rules, and divided among the winning tickets of the "Big Perfecta" exchange tickets, subject to these rules to the contrary. "Perfecta" windows shall be open for the purpose of making the exchange as described only after the first race has been declared official and such windows shall close at official post time at the start of the second race of the "Big Perfecta" races.

(f) If a winning "Big Perfecta" ticket from the first race is not presented for exchange within the time provided, the better forfeits all rights to any distribution or refund except in the event the second half of the "Big Perfecta" is canceled or declared "No Race" or if no exchange ticket includes either the first or second horse of the second half of the "Big Perfecta." (See Section 60.28 (e) of these rules.)

(g) If a horse is scratched in the first race of the "Big Perfecta" races, all "Big Perfecta" tickets on the scratched horse will be refunded.

(h) If a horse is scratched in the second race of the "Big Perfecta," all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: The net "Big Perfecta" pool (gross pool less commission) shall be divided by the total

purchase price of all tickets combining the winners of the first race of the "Big Perfecta." The quotient thus obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the "Big Perfecta." The entire consolation pool (number of eligible tickets times the consolation price) plus the breakage shall be deducted from the net "Big Perfecta" pool.

(i) If no "Big Perfecta" ticket is sold as a winning combination in the first race of the "Big Perfecta," the "Big Perfecta" pool shall be divided among those having tickets including the horse finishing first or second and such distributions shall be calculated and made as a place pool; in such an instance the "Big Perfecta" race shall end and the pool be closed for the day.

(j) If no "Big Perfecta" exchange tickets is sold on the winning combination, the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(k) If a "Big Perfecta" exchange ticket combines only one (1) of the two (2) winners and no "Big Perfecta" exchange tickets combines the other winner, the entire pool shall be distributed as a straight pool to the holders of these tickets.

(l) If no exchange ticket includes either the first or second horse of the second half of the "Big Perfecta," the entire net pool shall be distributed as a straight pool to all holders of exchange tickets and winning combinations of the first half that have not been exchanged.

(m) In the event of a dead heat for place in the first race of the "Big Perfecta" races, all "Big Perfecta" tickets combining the first horse and either of the place horses shall be eligible for exchange for "Big Perfecta" exchange tickets.

(n) In the event of a dead heat for place in the second race of the "Big Perfecta" races, the "Big Perfecta" pool shall be divided, calculated and distributed as a place pool to the holders of "Big Perfecta" exchange tickets combining the first horse and either of the place horses. In the event of the dead heat to place and there are no tickets sold on one (1) combination, then the other combination having winning horses shall be declared the winner. If no exchange tickets combine the winning horse with either of the

place horses in the dead heat, the "Big Perfecta" pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(o) If for any reason the second of the "Big Perfecta" races is canceled or declared "No Race," the pool shall be calculated as a straight pool and shall be distributed among the holders of the tickets combining the first two (2) horses, players of the first race of the "Big Perfecta" otherwise eligible for "Big Perfecta" exchange tickets and also distributed to holders of the "Big Perfecta" exchange tickets.

(p) If there is a dead heat for the winning horse in either of the two (2) designated races for the "Big Perfecta," such calculation of distribution of the "Big Perfecta" pool shall be made in the manner in which any ordinary perfecta pool would be made should there be a dead heat for the win despite the number of horses involved in the dead heat.

(q) The word "Perfecta" used in these rules is to be construed to mean "Exacta" where exacta wagering is conducted.

60.28. Big perfecta wagering.

a. The big perfecta is a form of pari-mutuel wagering in which the bettor selects two (2) horses that will finish first and second in each of two (2) designated races in the exact order as officially posted.

b. Each bettor shall select on one (1) ticket the two (2) horses that will finish first and second in each of two (2) consecutive designated races in the exact order as officially posted. Tickets are to be sold for both of the two (2) races prior to the first race of the races without any exchange of tickets between the first and second race.

c. "Big Perfecta" tickets shall be sold only by the licensee for not less than two dollars (\$2.00) and only from machines capable of issuing tickets in the manner prescribed by section b of this rule. Resale of such tickets from one individual to another is prohibited and shall be grounds for ejection.

d. The division of the net pool shall be calculated as in a straight pool, subject to the provisions of these rules to the contrary.

e. If a horse is scratched in either of the two (2) races designated as the big perfecta races before the

running of the first of these races, than no further big perfecta tickets may be issued designating such horse and all big perfecta tickets previously issued designating such horse shall be refunded and the money deducted from the gross pool.

f. If a horse is scratched in the second race, after the running of the first race, of the big perfecta races, then all big perfecta tickets having the exact order as officially posted for the first race of the big perfecta races and also combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: the net big perfecta pool (gross pool less commission) shall be divided by the purchase price of all tickets combining the winners of all tickets combining the winners of the first race of the big perfecta. The quotient thus obtained shall be the price to be paid to all big perfecta tickets having the exact order as officially posted for the first race of the big perfecta races and combining the scratched runner in second race of the big perfecta. The entire consolation pool (number of eligible tickets times the consolation price) plus the breakage shall be deducted from the net big perfecta pool.

g. If no big perfecta ticket is sold as a winning combination in the first race of the big perfecta, the big perfecta pool shall be divided among those having tickets including the horse finishing first or second and such distributions shall be calculated and made as a place pool, and in such an instance, the big perfecta race shall end and the pool be closed.

h. If no big perfecta ticket is sold designating a horse finishing first or second in the first race of the big perfecta then the gross pool shall be refunded.

i. If the first half of the big perfecta is cancelled or declared "no race" then the Big Perfecta shall be declared off and the gross pool refunded.

j. If no big perfecta ticket that is eligible for further participation after the first race includes the winning combination for the second race, then the net pool shall be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

k. If a big perfecta ticket that is eligible for further participation after the first race combines only one of the two (2) winners for the second race and no big perfecta ticket that is eligible for further participation after the first race combines the other winner, then the entire pool shall be distributed as a straight pool to holders of those tickets.

l. If no big perfecta tickets that is eligible for further participation after the first race includes either the first or second runner of the second race of the big perfecta, then the entire net pool shall be distributed as a straight pool to all holders of big perfecta tickets that were eligible for further participation after the first race.

m. In the event of a two (2) horse dead heat for place in the first race of the big perfecta races, all big perfecta tickets combining the first horse and either of the place horses shall be eligible for further participation.

n. In the event of a two (2) horse dead heat for place in the second race of the big perfecta races, the big perfecta pool shall be divided, calculated and distributed as a place pool to the holders of all big perfecta tickets having the exact order as officially posted for the first race in combination with the first horse and either of the place horses in the second race of the big perfecta. In the event of a two (2) horse dead heat to place in the second race and there are no tickets with one (1) combination, then the other combination having winning horses shall be declared the winner. If no big perfecta tickets that are eligible for further participation after the first race combine the winning horses with either of the place horses in the dead heat, the big perfecta pool shall be calculated and distributed as a place pool to the big perfecta ticket holders eligible for further participation after the first race who combine with the horse finishing first in the second race and the big perfecta ticket holders eligible for further participation after the first race who combine with either of the dead heat place.

In the event of a triple dead heat for place in the first or second race of the big perfecta, three (3) winning combinations result. Prices will be computed using the show pool calculation procedure.

In the event of a dead heat for place in both races of the big perfecta, four (4) (two (2) runner dead heats) or six (6) (triple dead heats) combinations result. Prices are computed in the same manner as the show pool except that the total dividend is divided into four (4) or six (6) equal parts, as appropriate.

If there is a dead heat for the winning horse in either of the two (2) consecutive races for the big perfecta, ticket holders combining those horses in either order will participate in the big perfecta as prescribed in these rules.

If for any reason the second race of the big per-

fecta races is cancelled or declared "no race" then the pool shall be calculated as a straight pool and shall be distributed among the big perfecta ticket holders eligible for further participation after the first race.

p. The word "perfecta" used in these rules is to be construed to mean "exacta" where exacta wagering is conducted.

q. Other than those designated by the auditor of pari-mutuels, no person shall have access to the information that is shown on the computer printouts or any other source concerning the number of tickets sold in the big perfecta or the number or amount of tickets selecting winners of the big perfecta races prior to the time the officials have determined the last race comprising the big perfecta of each performance to be official.

60.29. Trizacta. -- Trifecta wagering.

(a) Trizacta is a contract between purchaser of a ticket combining three (3) horses in a single race, selecting the three (3) horses that will finish first, second and third in that race.

(b) Trizacta tickets shall be sold in not less than two dollars (\$2.00) denominations and only from three (3) number issuing machines.

(c) Races in which trizacta pools shall be conducted shall be approved by the Racing Commission and shall be clearly designated in the program.

(d) The design of trizacta tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(e) If less than three (3) horses finish, payoff shall be made on tickets selecting the actual finishing horses in order, ignoring the balance of the selection.

(f) Payment of the ticket will be made only to the purchaser who has selected the same order of finish as officially posted.

(g) The trizacta is not a "Parlay" and has no connection with or relation to the win, place or show betting and will be calculated in an entirely separate pool.

(h) If a horse is scratched or declared a nonstarter, no further trizacta tickets may be issued designating such horse and all tickets previously issued designating such horse shall be refunded and

money deducted from the gross pool.

(i) If no ticket is sold on a winning combination of a trizacta pool, the net pool shall then be apportioned equally between those having tickets selecting the first and second place horses. If no ticket is sold selecting the first and second horse in the trizacta pool, the net pool shall then be apportioned equally between those having tickets selecting the horse or horses that finished first in the trizacta race. Should no selection be made as above mentioned, the net pool shall be apportioned equally between those having selected the horse finishing second combined with the horse finishing third.

(j) Should no selection be made as above mentioned, those having selected the second horse for second and the third horse for third with any other horses, contrary to the win, place and show pool practice, the aggregate number of tickets as mentioned in this paragraph shall divide the net pool and be paid the same payoff price.

(k) In case of a dead heat for first place, the winning combination shall include the first two (2) horses as finishing in either position, and the horse finishing third. In case of a dead heat to place, the winning combination shall be the horse finishing first and the two (2) horses finishing in a dead heat for place, as finishing in either position. In case of a dead heat for third, the winning combination shall be the horse finishing first, the horse finishing second and the two (2) horses finishing in a dead heat for third, as finishing in either position and distribution shall be made in accordance with established pari-mutuel practice relative to dead heats.

(l) Should no ticket be sold that would require distribution of the trizacta pool to a winner as above defined, the Association shall make full refund of the pool.

(m) No entries or field horses shall be allowed to start in any race on which trizacta pool is sold.

60.30. Should any emergency arise in connection with the operation of the mutuel department not covered by these rules and immediate decision is necessary, the mutuel manager shall make the decision and a prompt report of the facts will be made to the Racing Commission. If an error is made in posting the odds or the payoff figures on the public board, it shall be corrected promptly and only the correct amounts shall be used in the payoff, irrespective of the error that may have appeared on



WEST VIRGINIA LEGISLATURE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Room M-438, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

Senator Larry A. Tucker, Co-Chairman
Delegate Thomas A. Knight, Co-Chairman

December 18, 1987

M. E. Mowery, Counsel
Debra A. Graham, Associate Counsel
Marie Nickerson, Receiving Clerk

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register
Ms. Lois J. Graham, Exec. Sec.
WV Racing Commission
240 Capitol St., Suite 310
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Thoroughbred Rules, Series I. Amendments

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency _____
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. X
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Harry L. Buch, Chairman
Rodney Peters
Dale Baird, President
Joseph Cuomo, Dir. of Audits

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WEST VIRGINIA LEGISLATURE
 LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
 Room M-438, State Capitol
 Charleston, West Virginia 25305
 (304) 340-3286

Senator Larry A. Tucker, Co-Chairman
 Delegate Thomas A. Knight, Co-Chairman

December 10, 1987

M. E. Mowery, Counsel
 Debra A. Graham, Associate Counsel
 Marie Nickerson, Receiving Clerk

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: ✓ Ken Nechler, Secretary of State, State Register
 TO: Ms. Lois J. Graham, Exec. Sec.
 WV Racing Commission
 240 Capitol St., Suite 310
 Charleston, WV 25301
 FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Thoroughbred Rules, Series I, Amendments

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RACING COMMISSION-THOROUGHBRED RULES AMENDMENT

COMMITTEE AMENDMENTS:

On page twenty-three of the proposed rule, Section 37.23, dealing with approved jockey fees, by striking all of Section 37.23 and inserting in lieu thereof the existing provisions of Section 37.23 as contained in 178 CSR 1, effective June 7, 1985, which reads as follows:

"37.23. Approved jockeys' fees:

\$1,000 - \$1,400	10%	of winning purse
\$30	\$25	\$20
\$1,500 - \$1,900	10%	of winning purse
\$35	\$30	\$25
\$2,000 - \$3,400	10%	of winning purse
\$45	\$35	\$30
\$3,500 - \$4,900	10%	of winning purse
\$50	\$40	\$30
\$5,000 - up	10%	of winning purse
\$55	\$45	\$35

There shall be no contract mounts except for contract employees. In case an owner or a trainer shall engage two (2) or more jockeys for the same race, he shall pay the losing fee for each jockey so engaged who does not ride in that race."

And further amends said rule by striking Table 37-23A,

And further amends the proposed rule on page fifty-six, Section 61.3(f), by striking the last paragraph in subdivision (f) beginning with the word "Notwithstanding" and ending with the phrase "chapter 19 of the West Virginia Code."

That the proposed rule be amended by adding thereto a new section, designated section 67, to read as follows:

"§178-1-67. Limitation on the use of procedural or administrative rules.

"The commission shall not by procedural or administrative rules attempt to alter or amend subsections 37.23 or 61.3 of these rules so as to negate the effect of amendments to these subdivisions adopted by the Legislature in approving these rules."



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Room M-438, State Capitol
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(304) 340-3286

Senator Larry A. Tucker, Co-Chairman
Delegate Thomas A. Knight, Co-Chairman

February 1, 1988

M. E. Mowery, Counsel
Debra A. Graham, Associate Counsel
Marie Nickerson, Receiving Clerk

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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TO: Ms. Lois J. Graham, Exec. Sec.
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3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
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