

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #7

FILED
1987 JUL 31 PM 2:52
SECRETARY OF STATE

NOTICE OF AN EMERGENCY RULE

AGENCY: Racing Commission TITLE NUMBER: 178

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

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES x, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 2

TITLE OF RULE BEING AMENDED: Greyhound

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY:

TITLE OF RULE BEING FILED AS AN EMERGENCY:

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Changes are being made to update our rules and therefore bring them up to the standards of all other greyhound racing states.

Use Additional Sheets If Necessary.

DATE: July 31, 1987

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Racing Commission

EMERGENCY RULE TITLE: ~~Pick-Six; Pick-Three; Twin-Trifecta; Big Perfecta;~~
Greyhound;
Quinella Double

1. Date of filing: July 31, 1987
2. Statutory authority for promulgating the emergency rule: West Virginia Code § 19-23-6(a) (3)
3. Date of filing of proposed legislative rule: July 31, 1987
4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?
These emergency rules adopt new language (these are amendments to existing rules.)
5. Has the same or similar emergency rule previously been filed and expired?
No
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
These rules provide for the orderly distribution of pari-mutuel pool money to the public, State and other statutorily designated parties. Without these rules there would be no formula for distribution of the pari-mutuel pools which would be chaotic and not conducive to the public peace, health, safety or welfare.

KEN HECHLER
Secretary of State

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Deputy Secretary of State

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VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer
help we can get)

September 11, 1987

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Racing Commission

RULE: Amendments to Series 2, Greyhound Rules

DATE FILED AS AN EMERGENCY RULE: July 31, 1987

DECISION NO. 21-87

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.



KEN HECHLER
Secretary of State

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Sept. 11, 1987
ADMINISTRATIVE LAW DIVISION

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DECISION

Emergency Rule Decision (ERD 21-87)

AGENCY: Racing Commission
RULE: Amendments to Series 2; Greyhound Rules
DATE FILED AS AN EMERGENCY RULE: July 31, 1987

- par. 1 The Racing Commission has filed as an emergency amendments to the above Series 2.
- par. 2 West Virginia Code 29A-3-15A requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 The Racing Commission has filed this emergency rule with supporting documents with the Secretary of State on July 31, 1987, and with the LRMRC on July 31, 1987.

par. 7 It is the determination of the Secretary of State that the Racing Commission has complied with the procedural requirements of WV Code §29A-3-15.

par. 8 (B) Statutory Authority -- WV Code §19-23-6(3) reads:

(3) To promulgate reasonable rules and regulations implementing and making effective the provisions of this article and the powers and authority conferred and the duties imposed upon the racing commission under the provisions of this article, including, but not limited to, reasonable rules and regulations under which all horse races, dog races, horse race meetings and dog race meetings shall be held and conducted, all of which reasonable rules and regulations shall be promulgated in accordance with the provisions of article three (§29-3-1 et seq.) chapter twenty-nine-A of this Code.

par. 9 Since the Commission is empowered to fully regulate racing in West Virginia except for the internal business or internal affairs of the licensee (§19-23-6)) and the wagering mechanisms are not of an internal nature, it is the decision of the Secretary of State that the Racing Commission rules and those amendments to the wagering mechanisms are within their statutory authority.

par. 10 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:


(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Racing Commission are as follows:

These rules provide for the orderly distribution of pari-mutuel pool money to the public, State and other statutorily designated parties. Without these rules there would be no formula for distribution of the pari-mutuel pools which would be chaotic and not conducive to the public peace, health, safety or welfare.

- par. 13 Since the state and the public has an interest in the conduct of racing from not only an economic standpoint but the need to also insure trust in the fairness of its operations, any loss of this trust through unfair distribution of money would be detrimental to the public interest.
- par. 14 It is the decision of the Secretary of State that this proposal by the Racing Commission is in procedural compliance with WV Code 29A-3-15; does not exceed the statutory authority of the Racing Commission; and that the facts and circumstances presented constitute an emergency. Therefore, the Secretary of State decides that this emergency rule should be approved.
- par. 15 This decision shall be cited as Emergency Rule Decision 21-87 or ERD 21-87 and may be cited as precedent. This decision is available from the Secretary of State's office and has been filed with the Racing Commission, the Attorney General and the Legislative Rule Making Review Committee.



KEN HECHLER
SECRETARY OF STATE

FILED IN THE OFFICE OF
THE SECRETARY OF STATE

Entered _____

THIS DATE

Sept. 11, 1987

ADMINISTRATIVE LAW DIVISION