

HOUSE BILL 722

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C7
HB 1014/03 - W&M

2004 Regular Session
4r2410

By: **Delegates Doory, Hixson, Bartlett, Boschert, Bozman, Cardin, Cryor,
C. Davis, Elmore, Gilleland, Goodwin, Gordon, Healey, Heller, Howard,
Kaiser, King, Marriott, McKee, Myers, Patterson, Ramirez, and Ross**

Introduced and read first time: February 5, 2004

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Horse Racing - Pimlico Race Course - Transfer of Preakness Stakes Name**
3 **and Trademarks**

4 FOR the purpose of prohibiting video lottery terminals, other gaming devices, games
5 of chance, and other forms of gambling, except for pari-mutuel betting on horse
6 races, from being operated or conducted at the Pimlico Race Course unless the
7 owner of the Preakness Stakes and the name of the race, copyrights,
8 trademarks, service marks, and trade names associated with the Preakness
9 Stakes and the owner of the trophy known as the Woodlawn Vase have
10 transferred them unconditionally and unencumbered to the State of Maryland;
11 requiring that a judicial hearing be held to make certain determinations before
12 certain transfers are made; requiring the State to offset certain amounts under
13 certain circumstances; providing that after the transfers to the State required
14 by this Act have taken effect, the State shall license the person that undertook
15 the transfers the sole and exclusive right to the use and enjoyment of the
16 Preakness Stakes and the Woodlawn Vase if certain conditions are met;
17 providing that if the licensee violates certain provisions of law, the license for
18 the use of the Preakness Stakes and the Woodlawn Vase shall cease and
19 terminate and any license for any video lottery terminals or other gaming
20 devices, games of chance, or any other form of gambling, except for pari-mutuel
21 betting, shall cease and terminate; providing that the State may not sell, lease,
22 convey, transfer, assign, license, or exchange its rights, title, and interests in the
23 Preakness Stakes and the Woodlawn Vase without an authorization of the
24 General Assembly; defining certain terms; and generally relating to the
25 Preakness Stakes and the Woodlawn Vase and the Pimlico Race Course.

26 BY adding to
27 Article - Business Regulation
28 Section 11-520.1
29 Annotated Code of Maryland
30 (1998 Replacement Volume and 2003 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Business Regulation**

4 11-520.1.

5 (A) NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW AND EXCEPT
6 FOR PARI-MUTUEL BETTING AUTHORIZED BY THIS TITLE, A LICENSE TO INSTALL,
7 CONDUCT, OR OPERATE VIDEO LOTTERY TERMINALS, OTHER GAMING DEVICES,
8 GAMES OF CHANCE, AND OTHER FORMS OF GAMBLING MAY NOT BE ISSUED TO THE
9 OWNER OF THE FACILITIES OR THE GROUNDS OF THE PIMLICO RACE COURSE IN
10 BALTIMORE CITY UNLESS:

11 (1) THE OWNER OF THE NAME, COMMON LAW AND STATUTORY
12 COPYRIGHTS, SERVICE MARKS, TRADEMARKS, AND TRADE NAMES ASSOCIATED WITH
13 THE PREAKNESS STAKES HAS, SUBJECT TO SUBSECTION (B) OF THIS SECTION,
14 TRANSFERRED THEM UNCONDITIONALLY AND UNENCUMBERED TO THE STATE AND
15 HAS TRANSFERRED ALL RIGHTS TO AND TITLE AND INTEREST IN THEM TO THE
16 STATE BEFORE THE IMPLEMENTATION OF ANY LAW THAT AUTHORIZES THE
17 OPERATION OF VIDEO LOTTERY TERMINALS OR ANY OTHER FORM OF GAMBLING AT
18 THE PIMLICO RACE COURSE; AND

19 (2) THE OWNER OF THE TROPHY KNOWN AS THE WOODLAWN VASE HAS,
20 SUBJECT TO SUBSECTION (B) OF THIS SECTION, TRANSFERRED UNCONDITIONALLY
21 AND UNENCUMBERED TO THE STATE ALL RIGHTS TO AND TITLE AND INTEREST IN
22 THE WOODLAWN VASE BEFORE THE IMPLEMENTATION OF ANY LAW THAT
23 AUTHORIZES THE OPERATION OF VIDEO LOTTERY TERMINALS OR ANY OTHER FORM
24 OF GAMBLING AT THE PIMLICO RACE COURSE.

25 (B) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
26 MEANINGS INDICATED.

27 (II) "COPYRIGHT USE VALUE" MEANS THE VALUE OF THE LICENSE
28 OF THE SOLE AND EXCLUSIVE RIGHT TO THE USE AND ENJOYMENT OF THE
29 PREAKNESS STAKES NAME, COPYRIGHTS, SERVICE MARKS, TRADEMARKS, AND
30 TRADE NAMES, AND THE WOODLAWN VASE.

31 (III) "COPYRIGHT VALUE" MEANS THE VALUE OF THE NAME,
32 COMMON LAW, AND STATUTORY COPYRIGHTS, SERVICE MARKS, TRADEMARKS, AND
33 TRADE NAMES ASSOCIATED WITH THE PREAKNESS STAKES AND THE TROPHY
34 KNOWN AS THE WOODLAWN VASE.

35 (IV) "LICENSE VALUE" MEANS THE AMOUNT BY WHICH THE VALUE
36 OF THE LICENSE DESCRIBED IN SUBSECTION (A) OF THIS SECTION EXCEEDS THE
37 AMOUNT THAT THE OWNER OF THE LICENSE PAID TO THE STATE TO OBTAIN THE
38 LICENSE.

1 (2) BEFORE THE OWNER OF THE PROPERTY DESCRIBED IN SUBSECTION
2 (A) OF THIS SECTION TRANSFERS THE PROPERTY TO THE STATE, A JUDICIAL
3 HEARING SHALL BE HELD TO DETERMINE:

4 (I) THE COPYRIGHT USE VALUE;

5 (II) THE COPYRIGHT VALUE; AND

6 (III) THE LICENSE VALUE.

7 (3) IF IT IS DETERMINED IN THE JUDICIAL HEARING HELD UNDER
8 PARAGRAPH (2) OF THIS SUBSECTION THAT THE COPYRIGHT VALUE EXCEEDS THE
9 COPYRIGHT USE VALUE ADDED TO THE LICENSE VALUE, THE STATE SHALL OFFSET
10 THE EXCESS AMOUNT AGAINST THE AMOUNT THAT THE OWNER OF THE LICENSE
11 DESCRIBED IN SUBSECTION (A) OF THIS SECTION PAID TO THE STATE TO OBTAIN THE
12 LICENSE.

13 (C) AFTER THE TRANSFERS DESCRIBED IN SUBSECTION (A) OF THIS SECTION
14 HAVE TAKEN EFFECT, THE STATE SHALL LICENSE THE PERSON THAT UNDERTOOK
15 THE TRANSFERS THE SOLE AND EXCLUSIVE RIGHT TO THE USE AND ENJOYMENT OF
16 THE PREAKNESS STAKES NAME, COPYRIGHTS, SERVICE MARKS, TRADEMARKS, AND
17 TRADE NAMES, AND THE WOODLAWN VASE, IF THE FOLLOWING CONDITIONS ARE
18 MET:

19 (1) THE LICENSEE PROMOTES AND CONDUCTS THE PREAKNESS STAKES
20 AT THE PIMLICO RACE COURSE EACH YEAR; OR

21 (2) IF THE PIMLICO RACE COURSE NO LONGER EXISTS, THE PREAKNESS
22 STAKES IS PREVENTED FROM BEING CONDUCTED, OR THE COMMISSION, UNDER §
23 11-513 OF THIS SUBTITLE, DEEMS AN EMERGENCY EXISTS, THE LICENSEE PROMOTES
24 AND CONDUCTS THE PREAKNESS STAKES EACH YEAR AT ANOTHER TRACK LOCATED
25 IN THE STATE THAT IS APPROVED BY THE COMMISSION.

26 (D) (1) THE RIGHTS UNDER THE LICENSE MAY NOT BE ASSIGNED OR
27 TRANSFERRED BY THE LICENSEE TO ANY PERSON WITHOUT THE PRIOR WRITTEN
28 APPROVAL OF THE STATE.

29 (2) FOR THE PURPOSE OF PARAGRAPH (1) OF THIS SUBSECTION,
30 ASSIGNMENT OR TRANSFER INCLUDES A CHANGE IN OWNERSHIP OF THE LICENSEE
31 BY MORE THAN 50% OF ALL THE VOTING INTERESTS IN THE LICENSEE DURING ANY
32 12 CONSECUTIVE MONTH PERIOD.

33 (E) IF THE LICENSEE VIOLATES ANY PROVISION OF SUBSECTION (C) OR (D) OF
34 THIS SECTION, THE STATE SHALL SEND BY CERTIFIED MAIL, RETURN RECEIPT
35 REQUESTED, TO THE LICENSEE WRITTEN NOTICE OF THE VIOLATION.

36 (F) SIXTY DAYS AFTER THE WRITTEN NOTICE FROM THE STATE IS SENT TO
37 AND RECEIVED BY THE LICENSEE:

1 (1) THE LICENSE AND THE RIGHTS UNDER THE LICENSE GRANTED TO
2 THE LICENSEE SHALL CEASE AND TERMINATE;

3 (2) ANY LICENSE ISSUED FOR VIDEO LOTTERY TERMINALS, OTHER
4 GAMING DEVICES, GAMES OF CHANCE, OR ANY OTHER FORM OF GAMBLING, EXCEPT
5 FOR PARI-MUTUEL BETTING, AT THE PIMLICO RACE COURSE OR ITS PERMANENT
6 REPLACEMENT TRACK FACILITY AT WHICH THE PREAKNESS STAKES IS RUN SHALL
7 CEASE AND TERMINATE AND MAY NOT BE TRANSFERRED TO ANY OTHER PERSON;

8 (3) VIDEO LOTTERY TERMINALS, OTHER GAMING DEVICES, GAMES OF
9 CHANCE, AND ANY OTHER FORM OF GAMBLING, EXCEPT FOR PARI-MUTUEL
10 BETTING, MAY NOT BE OPERATED OR CONDUCTED IN THE FACILITIES OF OR ON THE
11 GROUNDS OF THE PIMLICO RACE COURSE IN BALTIMORE CITY OR IN THE FACILITIES
12 OF OR ON THE GROUNDS OF ANY PERMANENT REPLACEMENT TRACK FOR THE
13 PIMLICO RACE COURSE; AND

14 (4) THE STATE MAY GRANT ANY OR ALL OF THE RIGHTS UNDER THIS
15 SECTION TO ANY PERSON SUBJECT TO:

16 (I) THE PROVISIONS OF SUBSECTIONS (C) AND (D) OF THIS
17 SECTION; AND

18 (II) ANY OTHER TERMS AND CONDITIONS THE STATE MAY
19 CONSIDER APPROPRIATE AND NECESSARY, INCLUDING THE REQUIREMENT THAT IF
20 THE PREAKNESS STAKES CANNOT BE CONDUCTED AT THE PIMLICO RACE COURSE,
21 THE PREAKNESS STAKES SHALL BE CONDUCTED AT A REPLACEMENT TRACK
22 LOCATED IN THE STATE AS APPROVED BY THE COMMISSION.

23 (G) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE STATE MAY NOT
24 SELL, LEASE, CONVEY, TRANSFER, ASSIGN, LICENSE, OR EXCHANGE ITS RIGHTS,
25 TITLE, AND INTERESTS IN THE PREAKNESS STAKES, THE WOODLAWN VASE, AND THE
26 PREAKNESS STAKES NAME, COPYRIGHTS, SERVICE MARKS, TRADE NAMES, AND
27 TRADEMARKS UNLESS AUTHORIZED BY AN ACT OF THE GENERAL ASSEMBLY.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
29 effect July 1, 2004.