

SENATE BILL 734

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C7  
HB 1014/03 - W&M

2004 Regular Session  
4r2922  
CF HB 722

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By: **Senator Klausmeier**

Introduced and read first time: February 6, 2004

Assigned to: Budget and Taxation

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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)

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

1 **Article - Business Regulation**

2 11-520.1.

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

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

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

23 (B) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE  
24 MEANINGS INDICATED.

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

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

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

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

40 (I) THE COPYRIGHT USE VALUE;

1 (II) THE COPYRIGHT VALUE; AND

2 (III) THE LICENSE VALUE.

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

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

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

17 (2) IF THE PIMLICO RACE COURSE NO LONGER EXISTS, THE PREAKNESS  
18 STAKES IS PREVENTED FROM BEING CONDUCTED, OR THE COMMISSION, UNDER §  
19 11-513 OF THIS SUBTITLE, DEEMS AN EMERGENCY EXISTS, THE LICENSEE PROMOTES  
20 AND CONDUCTS THE PREAKNESS STAKES EACH YEAR AT ANOTHER TRACK LOCATED  
21 IN THE STATE THAT IS APPROVED BY THE COMMISSION.

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

25 (2) FOR THE PURPOSE OF PARAGRAPH (1) OF THIS SUBSECTION,  
26 ASSIGNMENT OR TRANSFER INCLUDES A CHANGE IN OWNERSHIP OF THE LICENSEE  
27 BY MORE THAN 50% OF ALL THE VOTING INTERESTS IN THE LICENSEE DURING ANY  
28 12 CONSECUTIVE MONTH PERIOD.

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

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

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

36 (2) ANY LICENSE ISSUED FOR VIDEO LOTTERY TERMINALS, OTHER  
37 GAMING DEVICES, GAMES OF CHANCE, OR ANY OTHER FORM OF GAMBLING, EXCEPT  
38 FOR PARI-MUTUEL BETTING, AT THE PIMLICO RACE COURSE OR ITS PERMANENT

1 REPLACEMENT TRACK FACILITY AT WHICH THE PREAKNESS STAKES IS RUN SHALL  
2 CEASE AND TERMINATE AND MAY NOT BE TRANSFERRED TO ANY OTHER PERSON;

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

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

11                   (I)       THE PROVISIONS OF SUBSECTIONS (C) AND (D) OF THIS  
12 SECTION; AND

13                   (II)       ANY OTHER TERMS AND CONDITIONS THE STATE MAY  
14 CONSIDER APPROPRIATE AND NECESSARY, INCLUDING THE REQUIREMENT THAT IF  
15 THE PREAKNESS STAKES CANNOT BE CONDUCTED AT THE PIMLICO RACE COURSE,  
16 THE PREAKNESS STAKES SHALL BE CONDUCTED AT A REPLACEMENT TRACK  
17 LOCATED IN THE STATE AS APPROVED BY THE COMMISSION.

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

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