

116TH CONGRESS
2D SESSION

H. R. 1754

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2020

Received

AN ACT

To improve the integrity and safety of horseracing by requiring a uniform anti-doping and medication control program to be developed and enforced by an independent Horseracing Anti-Doping and Medication Control Authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Horseracing Integrity
3 and Safety Act of 2020”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act the following definitions apply:

6 (1) **AUTHORITY.**—The term “Authority” means
7 the Horseracing Integrity and Safety Authority des-
8 ignated by section 3(a).

9 (2) **BREEDER.**—The term “breeder” means a
10 person who is in the business of breeding covered
11 horses.

12 (3) **COMMISSION.**—The term “Commission”
13 means the Federal Trade Commission.

14 (4) **COVERED HORSE.**—The term “covered
15 horse” means any Thoroughbred horse, or any other
16 horse made subject to this Act by election of the ap-
17 plicable State racing commission or the breed gov-
18 erning organization for such horse under section
19 5(k), during the period—

20 (A) beginning on the date of the horse’s
21 first timed and reported workout at a racetrack
22 that participates in covered horseraces or at a
23 training facility; and

24 (B) ending on the date on which the Au-
25 thority receives written notice that the horse
26 has been retired.

1 (5) COVERED HORSERACE.—The term “covered
2 horserace” means any horserace involving covered
3 horses that has a substantial relation to interstate
4 commerce, including any Thoroughbred horserace
5 that is the subject of interstate off-track or advance
6 deposit wagers.

7 (6) COVERED PERSONS.—The term “covered
8 persons” means all trainers, owners, breeders, jock-
9 eys, racetracks, veterinarians, persons (legal and
10 natural) licensed by a State racing commission and
11 the agents, assigns, and employees of such persons
12 and other horse support personnel who are engaged
13 in the care, training, or racing of covered horses.

14 (7) EQUINE CONSTITUENCIES.—The term
15 “equine constituencies” means, collectively, owners,
16 breeders, trainers, racetracks, veterinarians, State
17 racing commissions, and jockeys who are engaged in
18 the care, training, or racing of covered horses.

19 (8) EQUINE INDUSTRY REPRESENTATIVE.—The
20 term “equine industry representative” means an or-
21 ganization regularly and significantly engaged in the
22 equine industry, including organizations that rep-
23 resent the interests of, and whose membership con-
24 sists of, owners, breeders, trainers, racetracks, vet-
25 erinarians, State racing commissions, and jockeys.

1 (9) HORSERACING ANTI-DOPING AND MEDICA-
2 TION CONTROL PROGRAM.—The term “horseracing
3 anti-doping and medication control program” means
4 the anti-doping and medication program established
5 under section 6(a).

6 (10) IMMEDIATE FAMILY MEMBER.—The term
7 “immediate family member” shall include a spouse,
8 domestic partner, mother, father, aunt, uncle, sib-
9 ling, or child.

10 (11) INTERSTATE OFF-TRACK WAGER.—The
11 term “interstate off-track wager” has the meaning
12 given such term in section 3 of the Interstate Horse-
13 racing Act of 1978 (15 U.S.C. 3002).

14 (12) JOCKEY.—The term “jockey” means a
15 rider or driver of a covered horse in covered
16 horseraces.

17 (13) OWNER.—The term “owner” means a per-
18 son who holds an ownership interest in one or more
19 covered horses.

20 (14) PROGRAM EFFECTIVE DATE.—The term
21 “program effective date” means July 1, 2022.

22 (15) RACETRACK.—The term “racetrack”
23 means an organization licensed by a State racing
24 commission to conduct covered horseraces.

1 (16) RACETRACK SAFETY PROGRAM.—The term
2 “racetrack safety program” means the program es-
3 tablished under section 7(a).

4 (17) STAKES RACE.—The term “stakes race”
5 means any race so designated by the racetrack at
6 which such race is run, including, without limitation,
7 the races comprising the Breeders’ Cup World
8 Championships and the races designated as graded
9 stakes by the American Graded Stakes Committee of
10 the Thoroughbred Owners and Breeders Association.

11 (18) STATE RACING COMMISSION.—The term
12 “State racing commission” means an entity des-
13 ignated by State law or regulation that has jurisdic-
14 tion over the conduct of horseracing within the ap-
15 plicable State.

16 (19) TRAINER.—The term “trainer” means an
17 individual engaged in the training of covered horses.

18 (20) TRAINING FACILITY.—The term “training
19 facility” means a location that is not a racetrack li-
20 censed by a State racing commission that operates
21 primarily to house covered horses and conduct offi-
22 cial timed workouts.

23 (21) VETERINARIAN.—The term “veterinarian”
24 means a licensed veterinarian who provides veteri-
25 nary services to covered horses.

1 (22) WORKOUT.—The term “workout” means a
 2 timed running of a horse over a predetermined dis-
 3 tance not associated with a race or its first quali-
 4 fying race, if such race is made subject to this Act
 5 by election under section 5(k) of the horse’s breed
 6 governing organization or the applicable State racing
 7 commission.

8 **SEC. 3. RECOGNITION OF THE HORSERACING INTEGRITY**
 9 **AND SAFETY AUTHORITY.**

10 (a) IN GENERAL.—The private, independent, self-
 11 regulatory, nonprofit corporation, to be known as the
 12 “Horseracing Integrity and Safety Authority”, is recog-
 13 nized for purposes of developing and implementing a
 14 horseracing anti-doping and medication control program
 15 and a racetrack safety program for covered horses, cov-
 16 ered persons, and covered horseraces.

17 (b) BOARD OF DIRECTORS.—

18 (1) MEMBERSHIP.—The Authority shall be gov-
 19 erned by a board of directors (in this section re-
 20 ferred to as the “Board”) comprised of nine mem-
 21 bers as follows:

22 (A) INDEPENDENT MEMBERS.—Five mem-
 23 bers of the Board shall be independent mem-
 24 bers selected from outside the equine industry.

25 (B) INDUSTRY MEMBERS.—

1 (i) IN GENERAL.—Four members of
2 the Board shall be industry members se-
3 lected from among the various equine con-
4 stituencies.

5 (ii) REPRESENTATION OF EQUINE
6 CONSTITUENCIES.—The industry members
7 shall be representative of the various
8 equine constituencies, and shall include not
9 more than one industry member from any
10 one equine constituency.

11 (2) CHAIR.—The chair of the Board shall be an
12 independent member described in paragraph (1)(A).

13 (3) BYLAWS.—The Board of the Authority shall
14 be governed by bylaws for the operation of the Au-
15 thority with respect to—

16 (A) the administrative structure and em-
17 ployees of the Authority;

18 (B) the establishment of standing commit-
19 tees;

20 (C) the procedures for filling vacancies on
21 the Board and the standing committees;

22 (D) term limits for members and termi-
23 nation of membership; and

24 (E) any other matter the Board considers
25 necessary.

1 (c) STANDING COMMITTEES.—

2 (1) ANTI-DOPING AND MEDICATION CONTROL
3 STANDING COMMITTEE.—

4 (A) IN GENERAL.—The Authority shall es-
5 tablish an anti-doping and medication control
6 standing committee, which shall provide advice
7 and guidance to the Board on the development
8 and maintenance of the horseracing anti-doping
9 and medication control program.

10 (B) MEMBERSHIP.—The anti-doping and
11 medication control standing committee shall be
12 comprised of seven members as follows:

13 (i) INDEPENDENT MEMBERS.—A ma-
14 jority of the members shall be independent
15 members selected from outside the equine
16 industry.

17 (ii) INDUSTRY MEMBERS.—A minority
18 of the members shall be industry members
19 selected to represent the various equine
20 constituencies, and shall include not more
21 than one industry member from any one
22 equine constituency.

23 (iii) QUALIFICATION.—A majority of
24 individuals selected to serve on the anti-
25 doping and medication control standing

1 committee shall have significant, recent ex-
2 perience in anti-doping and medication
3 control rules.

4 (C) CHAIR.—The chair of the anti-doping
5 and medication control standing committee
6 shall be an independent member of the Board
7 described in subsection (b)(1)(A).

8 (2) RACETRACK SAFETY STANDING COM-
9 MITTEE.—

10 (A) IN GENERAL.—The Authority shall es-
11 tablish a racetrack safety standing committee,
12 which shall provide advice and guidance to the
13 Board on the development and maintenance of
14 the racetrack safety program.

15 (B) MEMBERSHIP.—The racetrack safety
16 standing committee shall be comprised of seven
17 members as follows:

18 (i) INDEPENDENT MEMBERS.—A ma-
19 jority of the members shall be independent
20 members selected from outside the equine
21 industry.

22 (ii) INDUSTRY MEMBERS.—A minority
23 of the members shall be industry members
24 selected to represent the various equine
25 constituencies.

1 (C) CHAIR.—The chair of the racetrack
2 safety standing committee shall be an industry
3 member of the Board described in subsection
4 (b)(1)(B).

5 (d) NOMINATING COMMITTEE.—

6 (1) MEMBERSHIP.—

7 (A) IN GENERAL.—The nominating com-
8 mittee of the Authority shall be comprised of
9 seven independent members selected from busi-
10 ness, sports, and academia.

11 (B) INITIAL MEMBERSHIP.—The initial
12 nominating committee members shall be set
13 forth in the governing corporate documents of
14 the Authority.

15 (C) VACANCIES.—After the initial com-
16 mittee members are appointed in accordance
17 with subparagraph (B), vacancies shall be filled
18 by the Board pursuant to rules established by
19 the Authority.

20 (2) CHAIR.—The chair of the nominating com-
21 mittee shall be selected by the nominating committee
22 from among the members of the nominating com-
23 mittee.

24 (3) SELECTION OF MEMBERS OF THE BOARD
25 AND STANDING COMMITTEES.—

1 (A) INITIAL MEMBERS.—The nominating
2 committee shall select the initial members of
3 the Board and the standing committees de-
4 scribed in subsection (c).

5 (B) SUBSEQUENT MEMBERS.— The nomi-
6 nating committee shall recommend individuals
7 to fill any vacancy on the Board or on such
8 standing committees.

9 (e) CONFLICTS OF INTEREST.—To avoid conflicts of
10 interest, the following individuals may not be selected as
11 a member of the Board or as an independent member of
12 a nominating or standing committee under this section:

13 (1) An individual who has a financial interest
14 in, or provides goods or services to, covered horses.

15 (2) An official or officer—

16 (A) of an equine industry representative;
17 or

18 (B) who serves in a governance or policy-
19 making capacity for an equine industry rep-
20 resentative.

21 (3) An employee of, or an individual who has a
22 business or commercial relationship with, an indi-
23 vidual described in paragraph (1) or (2).

24 (4) An immediate family member of an indi-
25 vidual described in paragraph (1) or (2).

1 (f) FUNDING.—

2 (1) INITIAL FUNDING.—

3 (A) IN GENERAL.—Initial funding to es-
4 tablish the Authority and underwrite its oper-
5 ations before the program effective date shall be
6 provided by loans obtained by the Authority.

7 (B) BORROWING.—The Authority may bor-
8 row funds toward the funding of its operations.

9 (C) ANNUAL CALCULATION OF AMOUNTS
10 REQUIRED.—

11 (i) IN GENERAL.—Not later than the
12 date that is 90 days before the program ef-
13 fective date, and not later than November
14 1 each year thereafter, the Authority shall
15 determine and provide to each State racing
16 commission the estimated amount required
17 from the State—

18 (I) to fund the State's propor-
19 tionate share of the horseracing anti-
20 doping and medication control pro-
21 gram and the racetrack safety pro-
22 gram for the next calendar year; and

23 (II) to liquidate the State's pro-
24 portionate share of any loan or fund-

1 ing shortfall in the current calendar
2 year and any previous calendar year.

3 (ii) BASIS OF CALCULATION.—The
4 amounts calculated under clause (i) shall—

5 (I) be based on—

6 (aa) the annual budget of
7 the Authority for the following
8 calendar year, as approved by the
9 Board; and

10 (bb) the projected amount of
11 covered racing starts for the year
12 in each State; and

13 (II) take into account other
14 sources of Authority revenue.

15 (iii) REQUIREMENTS REGARDING
16 BUDGETS OF AUTHORITY.—

17 (I) INITIAL BUDGET.—The initial
18 budget of the Authority shall require
19 the approval of $\frac{2}{3}$ of the Board.

20 (II) SUBSEQUENT BUDGETS.—
21 Any subsequent budget that exceeds
22 the budget of the preceding calendar
23 year by more than 5 percent shall re-
24 quire the approval of $\frac{2}{3}$ of the Board.

25 (iv) RATE INCREASES.—

1 (I) IN GENERAL.—A proposed in-
2 crease in the amount required under
3 this subparagraph shall be reported to
4 the Commission.

5 (II) NOTICE AND COMMENT.—
6 The Commission shall publish in the
7 Federal Register such a proposed in-
8 crease and provide an opportunity for
9 public comment.

10 (2) ASSESSMENT AND COLLECTION OF FEES BY
11 STATES.—

12 (A) NOTICE OF ELECTION.—Any State
13 racing commission that elects to remit fees pur-
14 suant to this subsection shall notify the Author-
15 ity of such election not later than 60 days be-
16 fore the program effective date.

17 (B) REQUIREMENT TO REMIT FEES.—
18 After a State racing commission makes a notifi-
19 cation under subparagraph (A), the election
20 shall remain in effect and the State racing com-
21 mission shall be required to remit fees pursuant
22 to this subsection according to a schedule estab-
23 lished in rule developed by the Authority and
24 approved by the Commission.

1 (C) WITHDRAWAL OF ELECTION.—A State
2 racing commission may cease remitting fees
3 under this subsection not earlier than one year
4 after notifying the Authority of the intent of
5 the State racing commission to do so.

6 (D) DETERMINATION OF METHODS.—Each
7 State racing commission shall determine, sub-
8 ject to the applicable laws, regulations, and con-
9 tracts of the State, the method by which the
10 requisite amount of fees, such as foal registra-
11 tion fees, sales contributions, starter fees, and
12 track fees, and other fees on covered persons,
13 shall be allocated, assessed, and collected.

14 (3) ASSESSMENT AND COLLECTION OF FEES BY
15 THE AUTHORITY.—

16 (A) CALCULATION.—If a State racing com-
17 mission does not elect to remit fees pursuant to
18 paragraph (2) or withdraws its election under
19 such paragraph, the Authority shall, not less
20 frequently than monthly, calculate the applica-
21 ble fee per racing start multiplied by the num-
22 ber of racing starts in the State during the pre-
23 ceding month.

24 (B) ALLOCATION.—The Authority shall al-
25 locate equitably the amount calculated under

1 subparagraph (A) collected among covered per-
2 sons involved with covered horseraces pursuant
3 to such rules as the Authority may promulgate.

4 (C) ASSESSMENT AND COLLECTION.—

5 (i) IN GENERAL.—The Authority shall
6 assess a fee equal to the allocation made
7 under subparagraph (B) and shall collect
8 such fee according to such rules as the Au-
9 thority may promulgate.

10 (ii) REMITTANCE OF FEES.—Covered
11 persons described in subparagraph (B)
12 shall be required to remit such fees to the
13 Authority.

14 (D) LIMITATION.—A State racing commis-
15 sion that does not elect to remit fees pursuant
16 to paragraph (2) or that withdraws its election
17 under such paragraph shall not impose or col-
18 lect from any person a fee or tax relating to
19 anti-doping and medication control or racetrack
20 safety matters for covered horseraces.

21 (4) FEES AND FINES.—Fees and fines imposed
22 by the Authority shall be allocated toward funding
23 of the Authority and its activities.

24 (5) RULE OF CONSTRUCTION.—Nothing in this
25 Act shall be construed to require—

1 (A) the appropriation of any amount to the
2 Authority; or

3 (B) the Federal Government to guarantee
4 the debts of the Authority.

5 (g) QUORUM.—For all items where Board approval
6 is required, the Authority shall have present a majority
7 of independent members.

8 **SEC. 4. FEDERAL TRADE COMMISSION OVERSIGHT.**

9 (a) IN GENERAL.—The Authority shall submit to the
10 Commission, in accordance with such rules as the Com-
11 mission may prescribe under section 553 of title 5, United
12 States Code, any proposed rule, or proposed modification
13 to a rule, of the Authority relating to—

14 (1) the bylaws of the Authority;

15 (2) a list of permitted and prohibited medica-
16 tions, substances, and methods, including allowable
17 limits of permitted medications, substances, and
18 methods;

19 (3) laboratory standards for accreditation and
20 protocols;

21 (4) standards for racing surface quality mainte-
22 nance;

23 (5) racetrack safety standards and protocols;

24 (6) a program for injury and fatality data anal-
25 ysis;

1 (7) a program of research and education on
2 safety, performance, and anti-doping and medication
3 control;

4 (8) a description of safety, performance, and
5 anti-doping and medication control rule violations
6 applicable to covered horses and covered persons;

7 (9) a schedule of civil sanctions for violations;

8 (10) a process or procedures for disciplinary
9 hearings; and

10 (11) a formula or methodology for determining
11 assessments described in section 3(f).

12 (b) PUBLICATION AND COMMENT.—

13 (1) IN GENERAL.—The Commission shall—

14 (A) publish in the Federal Register each
15 proposed rule or modification submitted under
16 subsection (a); and

17 (B) provide an opportunity for public com-
18 ment.

19 (2) APPROVAL REQUIRED.—A proposed rule, or
20 a proposed modification to a rule, of the Authority
21 shall not take effect unless the proposed rule or
22 modification has been approved by the Commission.

23 (c) DECISION ON PROPOSED RULE OR MODIFICA-
24 TION TO A RULE.—

1 (1) IN GENERAL.—Not later than 60 days after
2 the date on which a proposed rule or modification is
3 published in the Federal Register, the Commission
4 shall approve or disapprove the proposed rule or
5 modification.

6 (2) CONDITIONS.—The Commission shall ap-
7 prove a proposed rule or modification if the Commis-
8 sion finds that the proposed rule or modification is
9 consistent with—

10 (A) this Act; and

11 (B) applicable rules approved by the Com-
12 mission.

13 (3) REVISION OF PROPOSED RULE OR MODI-
14 FICATION.—

15 (A) IN GENERAL.—In the case of dis-
16 approval of a proposed rule or modification
17 under this subsection, not later than 30 days
18 after the issuance of the disapproval, the Com-
19 mission shall make recommendations to the Au-
20 thority to modify the proposed rule or modifica-
21 tion.

22 (B) RESUBMISSION.—The Authority may
23 resubmit for approval by the Commission a pro-
24 posed rule or modification that incorporates the

1 modifications recommended under subpara-
2 graph (A).

3 (d) PROPOSED STANDARDS AND PROCEDURES.—

4 (1) IN GENERAL.—The Authority shall submit
5 to the Commission any proposed rule, standard, or
6 procedure developed by the Authority to carry out
7 the horseracing anti-doping and medication control
8 program or the racetrack safety program.

9 (2) NOTICE AND COMMENT.—The Commission
10 shall publish in the Federal Register any such pro-
11 posed rule, standard, or procedure and provide an
12 opportunity for public comment.

13 (e) INTERIM FINAL RULES.—The Commission may
14 adopt an interim final rule, to take effect immediately,
15 under conditions specified in section 553(b)(B) of title 5,
16 United States Code, if the Commission finds that such a
17 rule is necessary to protect—

18 (1) the health and safety of covered horses; or

19 (2) the integrity of covered horseraces and wa-
20 gering on those horseraces.

21 **SEC. 5. JURISDICTION OF THE COMMISSION AND THE**
22 **HORSERACING INTEGRITY AND SAFETY AU-**
23 **THORITY.**

24 (a) IN GENERAL.—Beginning on the program effec-
25 tive date, the Commission, the Authority, and the anti-

1 doping and medication control enforcement agency, each
2 within the scope of their powers and responsibilities under
3 this Act, as limited by subsection (j), shall—

4 (1) implement and enforce the horseracing anti-
5 doping and medication control program and the
6 racetrack safety program;

7 (2) exercise independent and exclusive national
8 authority over—

9 (A) the safety, welfare, and integrity of
10 covered horses, covered persons, and covered
11 horseraces; and

12 (B) all horseracing safety, performance,
13 and anti-doping and medication control matters
14 for covered horses, covered persons, and covered
15 horseraces; and

16 (3) have safety, performance, and anti-doping
17 and medication control authority over covered per-
18 sons similar to such authority of the State racing
19 commissions before the program effective date.

20 (b) PREEMPTION.—The rules of the Authority pro-
21 mulgated in accordance with this Act shall preempt any
22 provision of State law or regulation with respect to mat-
23 ters within the jurisdiction of the Authority under this
24 Act, as limited by subsection (j). Nothing contained in this

1 Act shall be construed to limit the authority of the Com-
2 mission under any other provision of law.

3 (c) DUTIES.—

4 (1) IN GENERAL.—The Authority—

5 (A) shall develop uniform procedures and
6 rules authorizing—

7 (i) access to offices, racetrack facili-
8 ties, other places of business, books,
9 records, and personal property of covered
10 persons that are used in the care, treat-
11 ment, training, and racing of covered
12 horses;

13 (ii) issuance and enforcement of sub-
14 poenas and subpoenas duces tecum; and

15 (iii) other investigatory powers of the
16 nature and scope exercised by State racing
17 commissions before the program effective
18 date; and

19 (B) with respect to an unfair or deceptive
20 act or practice described in section 10, may rec-
21 ommend that the Commission commence an en-
22 forcement action.

23 (2) APPROVAL OF COMMISSION.—The proce-
24 dures and rules developed under paragraph (1)(A)

1 shall be subject to approval by the Commission in
2 accordance with section 4.

3 (d) REGISTRATION OF COVERED PERSONS WITH AU-
4 THORITY.—

5 (1) IN GENERAL.—As a condition of partici-
6 pating in covered races and in the care, ownership,
7 treatment, and training of covered horses, a covered
8 person shall register with the Authority in accord-
9 ance with rules promulgated by the Authority and
10 approved by the Commission in accordance with sec-
11 tion 4.

12 (2) AGREEMENT WITH RESPECT TO AUTHORITY
13 RULES, STANDARDS, AND PROCEDURES.—Registra-
14 tion under this subsection shall include an agree-
15 ment by the covered person to be subject to and
16 comply with the rules, standards, and procedures de-
17 veloped and approved under subsection (c).

18 (3) COOPERATION.—A covered person reg-
19 istered under this subsection shall, at all times—

20 (A) cooperate with the Commission, the
21 Authority, the anti-doping and medication con-
22 trol enforcement agency, and any respective
23 designee, during any civil investigation; and

24 (B) respond truthfully and completely to
25 the best of the knowledge of the covered person

1 if questioned by the Commission, the Authority,
2 the anti-doping and medication control enforce-
3 ment agency, or any respective designee.

4 (4) FAILURE TO COMPLY.—Any failure of a
5 covered person to comply with this subsection shall
6 be a violation of section 8(a)(2)(G).

7 (e) ENFORCEMENT OF PROGRAMS.—

8 (1) ANTI-DOPING AND MEDICATION CONTROL
9 ENFORCEMENT AGENCY.—

10 (A) AGREEMENT WITH USADA.—The Au-
11 thority shall seek to enter into an agreement
12 with the United States Anti-Doping Agency
13 under which the Agency acts as the anti-doping
14 and medication control enforcement agency
15 under this Act for services consistent with the
16 horseracing anti-doping and medication control
17 program.

18 (B) AGREEMENT WITH OTHER ENTITY.—If
19 the Authority and the United States Anti-
20 Doping Agency are unable to enter into the
21 agreement described in subparagraph (A), the
22 Authority shall enter into an agreement with an
23 entity that is nationally recognized as being a
24 medication regulation agency equal in qualifica-
25 tion to the United States Anti-Doping Agency

1 to act as the anti-doping and medication control
2 enforcement agency under this Act for services
3 consistent with the horseracing anti-doping and
4 medication control program.

5 (C) NEGOTIATIONS.—Any negotiations
6 under this paragraph shall be conducted in
7 good faith and designed to achieve efficient, ef-
8 fective best practices for anti-doping and medi-
9 cation control and enforcement on commercially
10 reasonable terms.

11 (D) ELEMENTS OF AGREEMENT.—Any
12 agreement under this paragraph shall include a
13 description of the scope of work, performance
14 metrics, reporting obligations, and budgets of
15 the United States Anti-Doping Agency while
16 acting as the anti-doping and medication con-
17 trol enforcement agency under this Act, as well
18 as a provision for the revision of the agreement
19 to increase in the scope of work as provided for
20 in subsection (k), and any other matter the Au-
21 thority considers appropriate.

22 (E) DUTIES AND POWERS OF ENFORCE-
23 MENT AGENCY.—The anti-doping and medica-
24 tion control enforcement agency under an
25 agreement under this paragraph shall—

1 (i) serve as the independent anti-
2 doping and medication control enforcement
3 organization for covered horses, covered
4 persons, and covered horseraces, imple-
5 menting the anti-doping and medication
6 control program on behalf of the Author-
7 ity;

8 (ii) ensure that covered horses and
9 covered persons are deterred from using or
10 administering medications, substances, and
11 methods in violation of the rules estab-
12 lished in accordance with this Act;

13 (iii) implement anti-doping education,
14 research, testing, compliance and adjudica-
15 tion programs designed to prevent covered
16 persons and covered horses from using or
17 administering medications, substances, and
18 methods in violation of the rules estab-
19 lished in accordance with this Act;

20 (iv) exercise the powers specified in
21 section 6(c)(4) in accordance with that sec-
22 tion; and

23 (v) implement and undertake any
24 other responsibilities specified in the agree-
25 ment.

1 (F) TERM AND EXTENSION.—

2 (i) TERM OF INITIAL AGREEMENT.—

3 The initial agreement entered into by the
4 Authority under this paragraph shall be in
5 effect for the 5-year period beginning on
6 the program effective date.

7 (ii) EXTENSION.—At the end of the 5-
8 year period described in clause (i), the Au-
9 thority may—

10 (I) extend the term of the initial
11 agreement under this paragraph for
12 such additional term as is provided by
13 the rules of the Authority and con-
14 sistent with this Act; or

15 (II) enter into an agreement
16 meeting the requirements of this para-
17 graph with an entity described by sub-
18 paragraph (B) for such term as is
19 provided by such rules and consistent
20 with this Act.

21 (2) AGREEMENTS FOR ENFORCEMENT BY
22 STATE RACING COMMISSIONS.—

23 (A) STATE RACING COMMISSIONS.—

24 (i) RACETRACK SAFETY PROGRAM.—

25 The Authority may enter into agreements

1 with State racing commissions for services
2 consistent with the enforcement of the
3 racetrack safety program.

4 (ii) ANTI-DOPING AND MEDICATION
5 CONTROL PROGRAM.—The anti-doping and
6 medication control enforcement agency
7 may enter into agreements with State rac-
8 ing commissions for services consistent
9 with the enforcement of the anti-doping
10 and medication control program.

11 (B) ELEMENTS OF AGREEMENTS.—Any
12 agreement under this paragraph shall include a
13 description of the scope of work, performance
14 metrics, reporting obligations, budgets, and any
15 other matter the Authority considers appro-
16 priate.

17 (3) ENFORCEMENT OF STANDARDS.—The Au-
18 thority may coordinate with State racing commis-
19 sions and other State regulatory agencies to monitor
20 and enforce racetrack compliance with the standards
21 developed under paragraphs (1) and (2) of section
22 7(c).

23 (f) PROCEDURES WITH RESPECT TO RULES OF AU-
24 THORITY.—

1 (1) ANTI-DOPING AND MEDICATION CON-
2 TROL.—

3 (A) IN GENERAL.—Recommendations for
4 rules regarding anti-doping and medication con-
5 trol shall be developed in accordance with sec-
6 tion 6.

7 (B) CONSULTATION.—The anti-doping and
8 medication control enforcement agency shall
9 consult with the anti-doping and medication
10 control standing committee and the Board of
11 the Authority on all anti-doping and medication
12 control rules of the Authority.

13 (2) RACETRACK SAFETY.—Recommendations
14 for rules regarding racetrack safety shall be devel-
15 oped by the racetrack safety standing committee of
16 the Authority.

17 (g) ISSUANCE OF GUIDANCE.—

18 (1) The Authority may issue guidance that—

19 (A) sets forth—

20 (i) an interpretation of an existing
21 rule, standard, or procedure of the Author-
22 ity; or

23 (ii) a policy or practice with respect to
24 the administration or enforcement of such

1 an existing rule, standard, or procedure;
2 and

3 (B) relates solely to—

4 (i) the administration of the Author-
5 ity; or

6 (ii) any other matter, as specified by
7 the Commission, by rule, consistent with
8 the public interest and the purposes of this
9 subsection.

10 (2) SUBMITTAL TO COMMISSION.—The Author-
11 ity shall submit to the Commission any guidance
12 issued under paragraph (1).

13 (3) IMMEDIATE EFFECT.—Guidance issued
14 under paragraph (1) shall take effect on the date on
15 which the guidance is submitted to the Commission
16 under paragraph (2).

17 (h) SUBPOENA AND INVESTIGATORY AUTHORITY.—
18 The Authority shall have subpoena and investigatory au-
19 thority with respect to civil violations committed under its
20 jurisdiction.

21 (i) CIVIL PENALTIES.—The Authority shall develop
22 a list of civil penalties with respect to the enforcement of
23 rules for covered persons and covered horseraces under its
24 jurisdiction.

25 (j) CIVIL ACTIONS.—

1 (1) IN GENERAL.—In addition to civil sanctions
2 imposed under section 8, the Authority may com-
3 mence a civil action against a covered person or
4 racetrack that has engaged, is engaged, or is about
5 to engage, in acts or practices constituting a viola-
6 tion of this Act or any rule established under this
7 Act in the proper district court of the United States,
8 the United States District Court for the District of
9 Columbia, or the United States courts of any terri-
10 tory or other place subject to the jurisdiction of the
11 United States, to enjoin such acts or practices, to
12 enforce any civil sanctions imposed under that sec-
13 tion, and for all other relief to which the Authority
14 may be entitled.

15 (2) INJUNCTIONS AND RESTRAINING ORDERS.—
16 With respect to a civil action commenced under
17 paragraph (1), upon a proper showing, a permanent
18 or temporary injunction or restraining order shall be
19 granted without bond.

20 (k) LIMITATIONS ON AUTHORITY.—

21 (1) PROSPECTIVE APPLICATION.—The jurisdic-
22 tion and authority of the Authority and the Commis-
23 sion with respect to the horseracing anti-doping and
24 medication control program and the racetrack safety
25 program shall be prospective only.

1 (2) PREVIOUS MATTERS.—

2 (A) IN GENERAL.—The Authority and the
3 Commission may not investigate, prosecute, ad-
4 judicate, or penalize conduct in violation of the
5 horseracing anti-doping and medication control
6 program and the racetrack safety program that
7 occurs before the program effective date.

8 (B) STATE RACING COMMISSION.—With re-
9 spect to conduct described in subparagraph (A),
10 the applicable State racing commission shall re-
11 tain authority until the final resolution of the
12 matter.

13 (3) OTHER LAWS UNAFFECTED.—This Act
14 shall not be construed to modify, impair or restrict
15 the operation of the general laws or regulations, as
16 may be amended from time to time, of the United
17 States, the States and their political subdivisions re-
18 lating to criminal conduct, cruelty to animals, mat-
19 ters unrelated to antidoping, medication control and
20 racetrack and racing safety of covered horses and
21 covered races, and the use of medication in human
22 participants in covered races.

23 (1) ELECTION FOR OTHER BREED COVERAGE UNDER
24 ACT.—

1 (1) IN GENERAL.—A State racing commission
2 or a breed governing organization for a breed of
3 horses other than Thoroughbred horses may elect to
4 have such breed be covered by this Act by the filing
5 of a designated election form and subsequent ap-
6 proval by the Authority. A State racing commission
7 may elect to have a breed covered by this Act for the
8 applicable State only.

9 (2) ELECTION CONDITIONAL ON FUNDING
10 MECHANISM.—A commission or organization may
11 not make an election under paragraph (1) unless the
12 commission or organization has in place a mecha-
13 nism to provide sufficient funds to cover the costs of
14 the administration of this Act with respect to the
15 horses that will be covered by this Act as a result
16 of the election.

17 (3) APPORTIONMENT.—The Authority shall ap-
18 portion costs described in paragraph (2) in connec-
19 tion with an election under paragraph (1) fairly
20 among all impacted segments of the horseracing in-
21 dustry, subject to approval by the Commission in ac-
22 cordance with section 4. Such apportionment may
23 not provide for the allocation of costs or funds
24 among breeds of horses.

1 **SEC. 6. HORSERACING ANTI-DOPING AND MEDICATION**
2 **CONTROL PROGRAM.**

3 (a) PROGRAM REQUIRED.—

4 (1) IN GENERAL.—Not later than the program
5 effective date, and after notice and an opportunity
6 for public comment in accordance with section 4, the
7 Authority shall establish a horseracing anti-doping
8 and medication control program applicable to all
9 covered horses, covered persons, and covered
10 horseraces in accordance with the registration of
11 covered persons under section 5(d).

12 (2) CONSIDERATION OF OTHER BREEDS.—In
13 developing the horseracing anti-doping and medica-
14 tion control program with respect to a breed of horse
15 that is made subject to this Act by election of a
16 State racing commission or the breed governing or-
17 ganization for such horse under section 5(k), the
18 Authority shall consider the unique characteristics of
19 such breed.

20 (b) CONSIDERATIONS IN DEVELOPMENT OF PRO-
21 GRAM.—In developing the horseracing anti-doping and
22 medication control program, the Authority shall take into
23 consideration the following:

24 (1) Covered horses should compete only when
25 they are free from the influence of medications,

1 other foreign substances, and methods that affect
2 their performance.

3 (2) Covered horses that are injured or unsound
4 should not train or participate in covered races, and
5 the use of medications, other foreign substances, and
6 treatment methods that mask or deaden pain in
7 order to allow injured or unsound horses to train or
8 race should be prohibited.

9 (3) Rules, standards, procedures, and protocols
10 regulating medication and treatment methods for
11 covered horses and covered races should be uniform
12 and uniformly administered nationally.

13 (4) To the extent consistent with this Act, con-
14 sideration should be given to international anti-
15 doping and medication control standards of the
16 International Federation of Horseracing Authorities
17 and the Principles of Veterinary Medical Ethics of
18 the American Veterinary Medical Association.

19 (5) The administration of medications and
20 treatment methods to covered horses should be
21 based upon an examination and diagnosis that iden-
22 tifies an issue requiring treatment for which the
23 medication or method represents an appropriate
24 component of treatment.

1 (6) The amount of therapeutic medication that
2 a covered horse receives should be the minimum nec-
3 essary to address the diagnosed health concerns
4 identified during the examination and diagnostic
5 process.

6 (7) The welfare of covered horses, the integrity
7 of the sport, and the confidence of the betting public
8 require full disclosure to regulatory authorities re-
9 garding the administration of medications and treat-
10 ments to covered horses.

11 (c) ACTIVITIES.—The following activities shall be car-
12 ried out under the horseracing anti-doping and medication
13 control program:

14 (1) STANDARDS FOR ANTI-DOPING AND MEDI-
15 CATION CONTROL.—Not later than 120 days before
16 the program effective date, the Authority shall issue,
17 by rule—

18 (A) uniform standards for—

19 (i) the administration of medication to
20 covered horses by covered persons; and

21 (ii) laboratory testing accreditation
22 and protocols; and

23 (B) a list of permitted and prohibited
24 medications, substances, and methods, including

1 allowable limits of permitted medications, sub-
2 stances, and methods.

3 (2) REVIEW PROCESS FOR ADMINISTRATION OF
4 MEDICATION.—The development of a review process
5 for the administration of any medication to a cov-
6 ered horse during the 48-hour period preceding the
7 next racing start of the covered horse.

8 (3) AGREEMENT REQUIREMENTS.—The devel-
9 opment of requirements with respect to agreements
10 under section 5(e).

11 (4) ANTI-DOPING AND MEDICATION CONTROL
12 ENFORCEMENT AGENCY.—

13 (A) CONTROL RULES, PROTOCOLS, ETC.—
14 Except as provided in paragraph (5), the anti-
15 doping and medication control program enforce-
16 ment agency under section 5(e) shall, in con-
17 sultation with the anti-doping and medication
18 control standing committee of the Authority
19 and consistent with international best practices,
20 develop and recommend anti-doping and medi-
21 cation control rules, protocols, policies, and
22 guidelines for approval by the Authority.

23 (B) RESULTS MANAGEMENT.—The anti-
24 doping and medication control enforcement
25 agency shall conduct and oversee anti-doping

1 and medication control results management, in-
2 cluding independent investigations, charging
3 and adjudication of potential medication control
4 rule violations, and the enforcement of any civil
5 sanctions for such violations. Any final decision
6 or civil sanction of the anti-doping and medica-
7 tion control enforcement agency under this sub-
8 paragraph shall be the final decision or civil
9 sanction of the Authority, subject to review in
10 accordance with section 9.

11 (C) TESTING.—The anti-doping enforce-
12 ment agency shall perform and manage test dis-
13 tribution planning (including intelligence-based
14 testing), the sample collection process, and in-
15 competition and out-of-competition testing (in-
16 cluding no-advance-notice testing).

17 (D) TESTING LABORATORIES.—The anti-
18 doping and medication control enforcement
19 agency shall accredit testing laboratories based
20 upon the standards established under this Act,
21 and shall monitor, test, and audit accredited
22 laboratories to ensure continuing compliance
23 with accreditation standards.

24 (5) ANTI-DOPING AND MEDICATION CONTROL
25 STANDING COMMITTEE.—The anti-doping and medi-

1 cation control standing committee shall, in consulta-
2 tion with the anti-doping and medication control en-
3 forcement agency, develop lists of permitted and pro-
4 hibited medications, methods, and substances for
5 recommendation to, and approval by, the Authority.
6 Any such list may prohibit the administration of any
7 substance or method to a horse at any time after
8 such horse becomes a covered horse if the Authority
9 determines such substance or method has a long-
10 term degrading effect on the soundness of a horse.

11 (d) PROHIBITION.—Except as provided in sub-
12 sections (e) and (f), the horseracing anti-doping and medi-
13 cation control program shall prohibit the administration
14 of any prohibited or otherwise permitted substance to a
15 covered horse within 48 hours of its next racing start, ef-
16 fective as of the program effective date.

17 (e) ADVISORY COMMITTEE STUDY AND REPORT.—

18 (1) IN GENERAL.—Not later than the program
19 effective date, the Authority shall convene an advi-
20 sory committee comprised of horseracing anti-doping
21 and medication control industry experts, including a
22 member designated by the anti-doping and medica-
23 tion control enforcement agency, to conduct a study
24 on the use of furosemide on horses during the 48-
25 hour period before the start of a race, including the

1 effect of furosemide on equine health and the integ-
2 rity of competition and any other matter the Author-
3 ity considers appropriate.

4 (2) REPORT.—Not later than three years after
5 the program effective date, the Authority shall direct
6 the advisory committee convened under paragraph
7 (1) to submit to the Authority a written report on
8 the study conducted under that paragraph that in-
9 cludes recommended changes, if any, to the prohibi-
10 tion in subsection (d).

11 (3) MODIFICATION OF PROHIBITION.—

12 (A) IN GENERAL.—After receipt of the re-
13 port required by paragraph (2), the Authority
14 may, by unanimous vote of the Board of the
15 Authority, modify the prohibition in subsection
16 (d) and, notwithstanding subsection (f), any
17 such modification shall apply to all States be-
18 ginning on the date that is three years after the
19 program effective date.

20 (B) CONDITION.—In order for a unani-
21 mous vote described in subparagraph (A) to ef-
22 fect a modification of the prohibition in sub-
23 section (d), the vote must include unanimous
24 adoption of each of the following findings:

1 (i) That the modification is war-
2 ranted.

3 (ii) That the modification is in the
4 best interests of horse racing.

5 (iii) That furosemide has no perform-
6 ance enhancing effect on individual horses.

7 (iv) That public confidence in the in-
8 tegrity and safety of racing would not be
9 adversely affected by the modification.

10 (f) EXEMPTION.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), only during the three-year period begin-
13 ning on the program effective date, a State racing
14 commission may submit to the Authority, at such
15 time and in such manner as the Authority may re-
16 quire, a request for an exemption from the prohibi-
17 tion in subsection (d) with respect to the use of
18 furosemide on covered horses during such period.

19 (2) EXCEPTIONS.—An exemption under para-
20 graph (1) may not be requested for—

21 (A) two-year-old covered horses; or

22 (B) covered horses competing in stakes
23 races.

24 (3) CONTENTS OF REQUEST.—A request under
25 paragraph (1) shall specify the applicable State rac-

1 ing commission’s requested limitations on the use of
2 furosemide that would apply to the State under the
3 horseracing anti-doping and medication control pro-
4 gram during such period. Such limitations shall be
5 no less restrictive on the use and administration of
6 furosemide than the restrictions set forth in State’s
7 laws and regulations in effect as of September 1,
8 2020.

9 (4) GRANT OF EXEMPTION.—Subject to sub-
10 section (e)(3), the Authority shall grant an exemp-
11 tion requested under paragraph (1) for the remain-
12 der of such period and shall allow the use of
13 furosemide on covered horses in the applicable State,
14 in accordance with the requested limitations.

15 (g) BASELINE ANTI-DOPING AND MEDICATION CON-
16 TROL RULES.—

17 (1) IN GENERAL.—Subject to paragraph (3),
18 the baseline anti-doping and medication control rules
19 described in paragraph (2) shall—

20 (A) constitute the initial rules of the horse-
21 racing anti-doping and medication control pro-
22 gram; and

23 (B) except as exempted pursuant to sub-
24 sections (e) and (f), remain in effect at all
25 times after the program effective date.

1 (2) BASELINE ANTI-DOPING MEDICATION CON-
2 TROL RULES DESCRIBED.—

3 (A) IN GENERAL.—The baseline anti-
4 doping and medication control rules described
5 in this paragraph are the following:

6 (i) The lists of permitted and prohib-
7 ited substances (including drugs, medica-
8 tions, and naturally occurring substances
9 and synthetically occurring substances) in
10 effect for the International Federation of
11 Horseracing Authorities, including the
12 International Federation of Horseracing
13 Authorities International Screening Limits
14 for urine, dated May 2019, and the Inter-
15 national Federation of Horseracing Au-
16 thorities International Screening Limits for
17 plasma, dated May 2019.

18 (ii) The World Anti-Doping Agency
19 International Standard for Laboratories
20 (version 10.0), dated November 12, 2019.

21 (iii) The Association of Racing Com-
22 missioners International out-of-competition
23 testing standards, Model Rules of Racing
24 (version 9.2).

1 (iv) The Association of Racing Com-
2 missioners International penalty and mul-
3 tiple medication violation rules, Model
4 Rules of Racing (version 6.2).

5 (B) CONFLICT OF RULES.—In the case of
6 a conflict among the rules described in subpara-
7 graph (A), the most stringent rule shall apply.

8 (3) MODIFICATIONS TO BASELINE RULES.—

9 (A) DEVELOPMENT BY ANTI-DOPING AND
10 MEDICATION CONTROL STANDING COM-
11 MITTEE.—The anti-doping and medication con-
12 trol standing committee, in consultation with
13 the anti-doping and medication control enforce-
14 ment agency, may develop and submit to the
15 Authority for approval by the Authority pro-
16 posed modifications to the baseline anti-doping
17 and medication control rules.

18 (B) AUTHORITY APPROVAL.—If the Au-
19 thority approves a proposed modification under
20 this paragraph, the proposed modification shall
21 be submitted to and considered by the Commis-
22 sion in accordance with section 4.

23 (C) ANTI-DOPING AND MEDICATION CON-
24 TROL ENFORCEMENT AGENCY VETO AUTHOR-
25 ITY.—The Authority shall not approve any pro-

1 posed modification that renders an anti-doping
2 and medication control rule less stringent than
3 the baseline anti-doping and medication control
4 rules described in paragraph (2) (including by
5 increasing permitted medication thresholds,
6 adding permitted medications, removing prohib-
7 ited medications, or weakening enforcement
8 mechanisms) without the approval of the anti-
9 doping and medication control enforcement
10 agency.

11 **SEC. 7. RACETRACK SAFETY PROGRAM.**

12 (a) ESTABLISHMENT AND CONSIDERATIONS.—

13 (1) IN GENERAL.—Not later than the program
14 effective date, and after notice and an opportunity
15 for public comment in accordance with section 4, the
16 Authority shall establish a racetrack safety program
17 applicable to all covered horses, covered persons, and
18 covered horseraces in accordance with the registra-
19 tion of covered persons under section 5(d).

20 (2) CONSIDERATIONS IN DEVELOPMENT OF
21 SAFETY PROGRAM.—In the development of the
22 horseracing safety program for covered horses, cov-
23 ered persons, and covered horseraces, the Authority
24 and the Commission shall take into consideration ex-
25 isting safety standards including the National Thor-

1 oughbred Racing Association Safety and Integrity
2 Alliance Code of Standards, the International Fed-
3 eration of Horseracing Authority's International
4 Agreement on Breeding, Racing, and Wagering, and
5 the British Horseracing Authority's Equine Health
6 and Welfare program.

7 (b) ELEMENTS OF HORSERACING SAFETY PRO-
8 GRAM.—The horseracing safety program shall include the
9 following:

10 (1) A set of training and racing safety stand-
11 ards and protocols taking into account regional dif-
12 ferences and the character of differing racing facili-
13 ties.

14 (2) A uniform set of training and racing safety
15 standards and protocols consistent with the humane
16 treatment of covered horses, which may include lists
17 of permitted and prohibited practices or methods
18 (such as crop use).

19 (3) A racing surface quality maintenance sys-
20 tem that—

21 (A) takes into account regional differences
22 and the character of differing racing facilities;
23 and

24 (B) may include requirements for track
25 surface design and consistency and established

1 standard operating procedures related to track
2 surface, monitoring, and maintenance (such as
3 standardized seasonal assessment, daily track-
4 ing, and measurement).

5 (4) A uniform set of track safety standards and
6 protocols, that may include rules governing oversight
7 and movement of covered horses and human and
8 equine injury reporting and prevention.

9 (5) Programs for injury and fatality data anal-
10 ysis, that may include pre- and post-training and
11 race inspections, use of a veterinarian's list, and
12 concussion protocols.

13 (6) The undertaking of investigations at race-
14 track and non-racetrack facilities related to safety
15 violations.

16 (7) Procedures for investigating, charging, and
17 adjudicating violations and for the enforcement of
18 civil sanctions for violations.

19 (8) A schedule of civil sanctions for violations.

20 (9) Disciplinary hearings, which may include
21 binding arbitration, civil sanctions, and research.

22 (10) Management of violation results.

23 (11) Programs relating to safety and perform-
24 ance research and education.

1 (12) An evaluation and accreditation program
 2 that ensures that racetracks in the United States
 3 meet the standards described in the elements of the
 4 Horseracing Safety Program.

5 (c) ACTIVITIES.—The following activities shall be car-
 6 ried out under the racetrack safety program:

7 (1) STANDARDS FOR RACETRACK SAFETY.—
 8 The development, by the racetrack safety standing
 9 committee of the Authority in section 3(c)(2) of uni-
 10 form standards for racetrack and horseracing safety.

11 (2) STANDARDS FOR SAFETY AND PERFORM-
 12 ANCE ACCREDITATION.—

13 (A) IN GENERAL.—Not later than 120
 14 days before the program effective date, the Au-
 15 thority, in consultation with the racetrack safe-
 16 ty standing committee, shall issue, by rule in
 17 accordance with section 4—

18 (i) safety and performance standards
 19 of accreditation for racetracks; and

20 (ii) the process by which a racetrack
 21 may achieve and maintain accreditation by
 22 the Authority.

23 (B) MODIFICATIONS.—

24 (i) IN GENERAL.—The Authority may
 25 modify rules establishing the standards

1 issued under subparagraph (A), as the Au-
2 thority considers appropriate.

3 (ii) NOTICE AND COMMENT.—The
4 Commission shall publish in the Federal
5 Register any proposed rule of the Author-
6 ity, and provide an opportunity for public
7 comment with respect to, any modification
8 under clause (i) in accordance with section
9 4.

10 (C) EXTENSION OF PROVISIONAL OR IN-
11 TERIM ACCREDITATION.—The Authority may,
12 by rule in accordance with section 4, extend
13 provisional or interim accreditation to a race-
14 track accredited by the National Thoroughbred
15 Racing Association Safety and Integrity Alli-
16 ance on a date before the program effective
17 date.

18 (3) NATIONWIDE SAFETY AND PERFORMANCE
19 DATABASE.—

20 (A) IN GENERAL.—Not later than one year
21 after the program effective date, and after no-
22 tice and an opportunity for public comment in
23 accordance with section 4, the Authority, in
24 consultation with the Commission, shall develop
25 and maintain a nationwide database of race-

1 horse safety, performance, health, and injury
2 information for the purpose of conducting an
3 epidemiological study.

4 (B) COLLECTION OF INFORMATION.—In
5 accordance with the registration of covered per-
6 sons under section 5(d), the Authority may re-
7 quire covered persons to collect and submit to
8 the database described in subparagraph (A)
9 such information as the Authority may require
10 to further the goal of increased racehorse wel-
11 fare.

12 **SEC. 8. RULE VIOLATIONS AND CIVIL SANCTIONS.**

13 (a) DESCRIPTION OF RULE VIOLATIONS.—

14 (1) IN GENERAL.—The Authority shall issue, by
15 rule in accordance with section 4, a description of
16 safety, performance, and anti-doping and medication
17 control rule violations applicable to covered horses
18 and covered persons.

19 (2) ELEMENTS.—The description of rule viola-
20 tions established under paragraph (1) may include
21 the following:

22 (A) With respect to a covered horse, strict
23 liability for covered trainers for—

1 (i) the presence of a prohibited sub-
2 stance or method in a sample or the use of
3 a prohibited substance or method;

4 (ii) the presence of a permitted sub-
5 stance in a sample in excess of the amount
6 allowed by the horseracing anti-doping and
7 medication control program; and

8 (iii) the use of a permitted method in
9 violation of the applicable limitations es-
10 tablished under the horseracing anti-
11 doping and medication control program.

12 (B) Attempted use of a prohibited sub-
13 stance or method on a covered horse.

14 (C) Possession of any prohibited substance
15 or method.

16 (D) Attempted possession of any prohib-
17 ited substance or method.

18 (E) Administration or attempted adminis-
19 tration of any prohibited substance or method
20 on a covered horse.

21 (F) Refusal or failure, without compelling
22 justification, to submit a covered horse for sam-
23 ple collection.

1 (G) Failure to cooperate with the Author-
2 ity or an agent of the Authority during any in-
3 vestigation.

4 (H) Failure to respond truthfully, to the
5 best of a covered person's knowledge, to a ques-
6 tion of the Authority or an agent of the Author-
7 ity with respect to any matter under the juris-
8 diction of the Authority.

9 (I) Tampering or attempted tampering
10 with the application of the safety, performance,
11 or anti-doping and medication control rules or
12 process adopted by the Authority, including—

13 (i) the intentional interference, or an
14 attempt to interfere, with an official or
15 agent of the Authority;

16 (ii) the procurement or the provision
17 of fraudulent information to the Authority
18 or agent; and

19 (iii) the intimidation of, or an attempt
20 to intimidate, a potential witness.

21 (J) Trafficking or attempted trafficking in
22 any prohibited substance or method.

23 (K) Assisting, encouraging, aiding, abet-
24 ting, conspiring, covering up, or any other type
25 of intentional complicity involving a safety, per-

1 formance, or anti-doping and medication control
2 rule violation or the violation of a period of sus-
3 pension or eligibility.

4 (L) Threatening or seeking to intimidate a
5 person with the intent of discouraging the per-
6 son from the good faith reporting to the Au-
7 thority, an agent of the Authority or the Com-
8 mission, or the anti-doping and medication con-
9 trol enforcement agency under section 5(e), of
10 information that relates to—

11 (i) an alleged safety, performance, or
12 anti-doping and medication control rule
13 violation; or

14 (ii) alleged noncompliance with a safe-
15 ty, performance, or anti-doping and medi-
16 cation control rule.

17 (b) TESTING LABORATORIES.—

18 (1) ACCREDITATION AND STANDARDS.—Not
19 later than 120 days before the program effective
20 date, the Authority shall, in consultation with the
21 anti-doping and medication control enforcement
22 agency, establish, by rule in accordance with section
23 4—

1 (A) standards of accreditation for labora-
2 tories involved in testing samples from covered
3 horses;

4 (B) the process for achieving and main-
5 taining accreditation; and

6 (C) the standards and protocols for testing
7 such samples.

8 (2) ADMINISTRATION.—The accreditation of
9 laboratories and the conduct of audits of accredited
10 laboratories to ensure compliance with Authority
11 rules shall be administered by the anti-doping and
12 medication control enforcement agency. The anti-
13 doping and medication control enforcement agency
14 shall have the authority to require specific test sam-
15 ples to be directed to and tested by laboratories hav-
16 ing special expertise in the required tests.

17 (3) EXTENSION OF PROVISIONAL OR INTERIM
18 ACCREDITATION.—The Authority may, by rule in ac-
19 cordance with section 4, extend provisional or in-
20 terim accreditation to a laboratory accredited by the
21 Racing Medication and Testing Consortium, Inc., on
22 a date before the program effective date.

23 (4) SELECTION OF LABORATORIES.—

24 (A) IN GENERAL.—Except as provided in
25 paragraph (2), a State racing commission may

1 select a laboratory accredited in accordance
2 with the standards established under paragraph
3 (1) to test samples taken in the applicable
4 State.

5 (B) SELECTION BY THE AUTHORITY.—If a
6 State racing commission does not select an ac-
7 credited laboratory under subparagraph (A),
8 the Authority shall select such a laboratory to
9 test samples taken in the State concerned.

10 (c) RESULTS MANAGEMENT AND DISCIPLINARY
11 PROCESS.—

12 (1) IN GENERAL.—Not later than 120 days be-
13 fore the program effective date, the Authority shall
14 establish in accordance with section 4—

15 (A) rules for safety, performance, and anti-
16 doping and medication control results manage-
17 ment; and

18 (B) the disciplinary process for safety, per-
19 formance, and anti-doping and medication con-
20 trol rule violations.

21 (2) ELEMENTS.—The rules and process estab-
22 lished under paragraph (1) shall include the fol-
23 lowing:

1 (A) Provisions for notification of safety,
2 performance, and anti-doping and medication
3 control rule violations.

4 (B) Hearing procedures.

5 (C) Standards for burden of proof.

6 (D) Presumptions.

7 (E) Evidentiary rules.

8 (F) Appeals.

9 (G) Guidelines for confidentiality and pub-
10 lic reporting of decisions.

11 (3) DUE PROCESS.—The rules established
12 under paragraph (1) shall provide for adequate due
13 process, including impartial hearing officers or tribu-
14 nals commensurate with the seriousness of the al-
15 leged safety, performance, or anti-doping and medi-
16 cation control rule violation and the possible civil
17 sanctions for such violation.

18 (d) CIVIL SANCTIONS.—

19 (1) IN GENERAL.—The Authority shall estab-
20 lish uniform rules, in accordance with section 4, im-
21 posing civil sanctions against covered persons or cov-
22 ered horses for safety, performance, and anti-doping
23 and medication control rule violations.

24 (2) REQUIREMENTS.—The rules established
25 under paragraph (1) shall—

1 (A) take into account the unique aspects of
2 horseracing;

3 (B) be designed to ensure fair and trans-
4 parent horseraces; and

5 (C) deter safety, performance, and anti-
6 doping and medication control rule violations.

7 (3) SEVERITY.—The civil sanctions under para-
8 graph (1) may include—

9 (A) lifetime bans from horseracing,
10 disgorgement of purses, monetary fines and
11 penalties, and changes to the order of finish in
12 covered races; and

13 (B) with respect to anti-doping and medi-
14 cation control rule violators, an opportunity to
15 reduce the applicable civil sanctions that is
16 comparable to the opportunity provided by the
17 Protocol for Olympic Movement Testing of the
18 United States Anti-Doping Agency.

19 (e) MODIFICATIONS.—The Authority may propose a
20 modification to any rule established under this section as
21 the Authority considers appropriate, and the proposed
22 modification shall be submitted to and considered by the
23 Commission in accordance with section 4.

1 **SEC. 9. REVIEW OF FINAL DECISIONS OF THE AUTHORITY.**

2 (a) NOTICE OF CIVIL SANCTIONS.— If the Authority
3 imposes a final civil sanction for a violation committed by
4 a covered person pursuant to the rules or standards of
5 the Authority, the Authority shall promptly submit to the
6 Commission notice of the civil sanction in such form as
7 the Commission may require.

8 (b) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

9 (1) IN GENERAL.—With respect to a final civil
10 sanction imposed by the Authority, on application by
11 the Commission or a person aggrieved by the civil
12 sanction filed not later than 30 days after the date
13 on which notice under subsection (a) is submitted,
14 the civil sanction shall be subject to de novo review
15 by an administrative law judge.

16 (2) NATURE OF REVIEW.—

17 (A) IN GENERAL.—In matters reviewed
18 under this subsection, the administrative law
19 judge shall determine whether—

20 (i) a person has engaged in such acts
21 or practices, or has omitted such acts or
22 practices, as the Authority has found the
23 person to have engaged in or omitted;

24 (ii) such acts, practices, or omissions
25 are in violation of this Act or the anti-
26 doping and medication control or racetrack

1 safety rules approved by the Commission;
2 or

3 (iii) the final civil sanction of the Au-
4 thority was arbitrary, capricious, an abuse
5 of discretion, or otherwise not in accord-
6 ance with law.

7 (B) CONDUCT OF HEARING.—An adminis-
8 trative law judge shall conduct a hearing under
9 this subsection in such a manner as the Com-
10 mission may specify by rule, which shall con-
11 form to section 556 of title 5, United States
12 Code.

13 (3) DECISION BY ADMINISTRATIVE LAW
14 JUDGE.—

15 (A) IN GENERAL.—With respect to a mat-
16 ter reviewed under this subsection, an adminis-
17 trative law judge—

18 (i) shall render a decision not later
19 than 60 days after the conclusion of the
20 hearing;

21 (ii) may affirm, reverse, modify, set
22 aside, or remand for further proceedings,
23 in whole or in part, the final civil sanction
24 of the Authority; and

1 (iii) may make any finding or conclu-
2 sion that, in the judgment of the adminis-
3 trative law judge, is proper and based on
4 the record.

5 (B) FINAL DECISION.—A decision under
6 this paragraph shall constitute the decision of
7 the Commission without further proceedings
8 unless a notice or an application for review is
9 timely filed under subsection (c).

10 (c) REVIEW BY COMMISSION.—

11 (1) NOTICE OF REVIEW BY COMMISSION.—The
12 Commission may, on its own motion, review any de-
13 cision of an administrative law judge issued under
14 subsection (b)(3) by providing written notice to the
15 Authority and any interested party not later than 30
16 days after the date on which the administrative law
17 judge issues the decision.

18 (2) APPLICATION FOR REVIEW.—

19 (A) IN GENERAL.—The Authority or a per-
20 son aggrieved by a decision issued under sub-
21 section (b)(3) may petition the Commission for
22 review of such decision by filing an application
23 for review not later than 30 days after the date
24 on which the administrative law judge issues
25 the decision.

1 (B) EFFECT OF DENIAL OF APPLICATION
2 FOR REVIEW.—If an application for review
3 under subparagraph (A) is denied, the decision
4 of the administrative law judge shall constitute
5 the decision of the Commission without further
6 proceedings.

7 (C) DISCRETION OF COMMISSION.—

8 (i) IN GENERAL.—A decision with re-
9 spect to whether to grant an application
10 for review under subparagraph (A) is sub-
11 ject to the discretion of the Commission.

12 (ii) MATTERS TO BE CONSIDERED.—
13 In determining whether to grant such an
14 application for review, the Commission
15 shall consider whether the application
16 makes a reasonable showing that—

17 (I) a prejudicial error was com-
18 mitted in the conduct of the pro-
19 ceeding; or

20 (II) the decision involved—

21 (aa) an erroneous applica-
22 tion of the anti-doping and medi-
23 cation control or racetrack safety
24 rules approved by the Commis-
25 sion; or

1 (bb) an exercise of discretion
2 or a decision of law or policy that
3 warrants review by the Commis-
4 sion.

5 (3) NATURE OF REVIEW.—

6 (A) IN GENERAL.—In matters reviewed
7 under this subsection, the Commission may—

8 (i) affirm, reverse, modify, set aside,
9 or remand for further proceedings, in
10 whole or in part, the decision of the admin-
11 istrative law judge; and

12 (ii) make any finding or conclusion
13 that, in the judgement of the Commission,
14 is proper and based on the record.

15 (B) DE NOVO REVIEW.—The Commission
16 shall review de novo the factual findings and
17 conclusions of law made by the administrative
18 law judge.

19 (C) CONSIDERATION OF ADDITIONAL EVI-
20 DENCE.—

21 (i) MOTION BY COMMISSION.—The
22 Commission may, on its own motion, allow
23 the consideration of additional evidence.

24 (ii) MOTION BY A PARTY.—

1 (I) IN GENERAL.—A party may
2 file a motion to consider additional
3 evidence at any time before the
4 issuance of a decision by the Commis-
5 sion, which shall show, with particu-
6 larity, that—

7 (aa) such additional evidence
8 is material; and

9 (bb) there were reasonable
10 grounds for failure to submit the
11 evidence previously.

12 (II) PROCEDURE.—The Commis-
13 sion may—

14 (aa) accept or hear addi-
15 tional evidence; or

16 (bb) remand the proceeding
17 to the administrative law judge
18 for the consideration of addi-
19 tional evidence.

20 (d) STAY OF PROCEEDINGS.—Review by an adminis-
21 trative law judge or the Commission under this section
22 shall not operate as a stay of a final civil sanction of the
23 Authority unless the administrative law judge or Commis-
24 sion orders such a stay.

1 **SEC. 10. UNFAIR OR DECEPTIVE ACTS OR PRACTICES.**

2 The sale of a covered horse, or of any other horse
3 in anticipation of its future participation in a covered race,
4 shall be considered an unfair or deceptive act or practice
5 in or affecting commerce under section 5(a) of the Federal
6 Trade Commission Act (15 U.S.C. 45(a)) if the seller—

7 (1) knows or has reason to know the horse has
8 been administered—

9 (A) a bisphosphonate prior to the horse's
10 fourth birthday; or

11 (B) any other substance or method the Au-
12 thority determines has a long-term degrading
13 effect on the soundness of the covered horse;
14 and

15 (2) fails to disclose to the buyer the administra-
16 tion of the bisphosphonate or other substance or
17 method described in paragraph (1)(B).

18 **SEC. 11. STATE DELEGATION; COOPERATION.**

19 (a) STATE DELEGATION.—

20 (1) IN GENERAL.—The Authority may enter
21 into an agreement with a State racing commission to
22 implement, within the jurisdiction of the State rac-
23 ing commission, a component of the racetrack safety
24 program or, with the concurrence of the anti-doping
25 and medication control enforcement agency under
26 section 5(e), a component of the horseracing anti-

1 doping and medication control program, if the Au-
2 thority determines that the State racing commission
3 has the ability to implement such component in ac-
4 cordance with the rules, standards, and require-
5 ments established by the Authority.

6 (2) IMPLEMENTATION BY STATE RACING COM-
7 MISSION.—A State racing commission or other ap-
8 propriate regulatory body of a State may not imple-
9 ment such a component in a manner less restrictive
10 than the rule, standard, or requirement established
11 by the Authority.

12 (b) COOPERATION.—To avoid duplication of func-
13 tions, facilities, and personnel, and to attain closer coordi-
14 nation and greater effectiveness and economy in adminis-
15 tration of Federal and State law, where conduct by any
16 person subject to the horseracing medication control pro-
17 gram or the racetrack safety program may involve both
18 a medication control or racetrack safety rule violation and
19 violation of Federal or State law, the Authority and Fed-
20 eral or State law enforcement authorities shall cooperate
21 and share information.

22 **SEC. 12. DETERMINATION OF BUDGETARY EFFECTS.**

23 The budgetary effects of this Act, for the purpose of
24 complying with the Statutory Pay-As-You-Go Act of 2010,
25 shall be determined by reference to the latest statement

1 titled “Budgetary Effects of PAYGO Legislation” for this
2 Act, submitted for printing in the Congressional Record
3 by the Chairman of the House Budget Committee, pro-
4 vided that such statement has been submitted prior to the
5 vote on passage.

Passed the House of Representatives September 29,
2020.

Attest:

CHERYL L. JOHNSON,

Clerk.