116TH CONGRESS
1ST SESSION

S. 1820

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.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2019

Mrs. GILLIBRAND (for herself and Ms. MCSALLY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Horseracing Integrity Act of 2019''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Recognizing the substantial relation that horseracing has to interstate commerce, Congress enacted the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) to regulate pari-mutuel wagering on horseracing in order to protect and further the horseracing industry of the United States. This Act does not modify or supplement the Interstate Horseracing Act of 1978 or impair or restrict the operation and enforcement of State law or regulation of horseracing with respect to matters unrelated to anti-doping and medication control or for violations of State or Federal criminal law.

(2) Approximately 40 percent of the 635,890 starts by Thoroughbred, Quarter Horse, and Standardbred racehorses in 2018 were made by horses that competed in more than one State. Those Thoroughbred, Quarter Horse, and Standardbred racehorses which participated in races in more than one State in 2018 made over 55 percent of all United States racing starts that year.

(3) Uniform adoption of national anti-doping and medication control standards for horseracing in the United States will promote interstate commerce, encourage fair competition and a level playing field, assure full and fair disclosure of information to pur-

chasers of breeding stock and to the wagering public, will improve the marketplace for domestic and international sales of United States horses, will provide a platform for consistency with all major international horseracing standards, address growing domestic concerns over disparities with international rules, and provide for the safety and welfare of horses and jockeys.

(4) The use of therapeutic medications in horseracing in the United States must place the health and welfare of the horse at the highest level of priority while achieving consistency with the uses permitted in major international horseracing jurisdictions. Because the various States have been unable to adopt a national uniform anti-doping and medication control program, national uniform regulations with respect to the use of, and testing for, drugs capable of affecting the results of a horse race and therapeutic medications used in horseracing, such rules, procedures, and enforcement policies should be implemented, consistent with internationally accepted best practices, by an independent anti-doping and medication control organization authorized by an act of Congress.

(5) For human sports, Congress has demonstrated its commitment to fair competition through legislation, oversight, funding, and by its execution of an international treaty, the UNESCO International Convention Against Doping in Sport. By ratifying the UNESCO Convention, the United States agreed to adopt appropriate measures consistent with the principles of the World Anti-Doping Code and to take appropriate action, including legislation, regulation, policies, or administrative practices to implement that commitment.

(6) In the context of Olympic sports, Congress has recognized the United States Anti-Doping Agency as an independent anti-doping and medication control organization possessing high-level expertise and credibility in the development and administration of an anti-doping and medication control program.

(7) Congress supports the establishment of an independent anti-doping and medication control organization to ensure the wagering public's confidence in the fairness of horseracing and to strengthen and harmonize anti-doping and medication control rules and sanctions for horseracing in order to ensure fair and transparent horseraces and

to deter the commission of anti-doping and medication control rule violations.

(8) The movement of horses among the States for the purpose of participating in covered horseraces, the widespread acceptance, receipt, and transmission of wagers on covered horseraces in interstate commerce, and the need to ensure integrity of competition in, and wagering on, covered horseraces warrant congressional action as set forth in this Act.

SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term ''Authority'' means the independent Horseracing Anti-Doping and Medication Control Authority established by section 5.

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(3) COVERED HORSERACE.—The term ''covered horserace'' means any horserace that has a substantial relation to interstate commerce, including any horserace that is the subject of interstate off-track wagers.

(4) COVERED HORSE.—The term ''covered horse'' means any Thoroughbred, Quarter, or Standardbred horse, beginning on the date of the horse's first timed and reported workout at a race track

that participates in covered horseraces or a licensed training facility until the Authority receives written notice that the horse has been retired.

(5) COVERED PERSONS.—The term ''covered persons'' means all trainers, owners, veterinarians, persons (legal and natural) licensed by a State racing commission and the agents, assigns and employees of such persons and other horse support personnel who are engaged in the care, training, or racing of covered horses.

(6) EQUINE CONSTITUENCIES.—The term ''equine constituencies'' means, collectively, the owners and breeders, trainers, racetracks, veterinarians, State racing commissions, and jockeys.

(7) EQUINE INDUSTRY REPRESENTATIVE.—The term ''equine industry representative'' means an organization regularly and significantly engaged in the equine industry, including organizations that represent the interests of, and whose membership consists of, owners and breeders, trainers, racetracks, veterinarians, State racing commissions, and jockeys.

(8) HORSERACING ANTI-DOPING AND MEDICATION CONTROL PROGRAM.—The term ''horseracing

anti-doping and medication control program'' means the program established under section 6.

(9) INTERSTATE OFF-TRACK WAGER.—The term ''interstate off-track wager'' has the meaning given such term in section 3 of the Interstate Horseracing Act of 1978 (15 U.S.C. 3002).

(10) JOCKEY.—The term ''jockey'' means a rider or driver of a covered horse in covered horseraces.

(11) MEDICATION AND REGULATORY EXPERTS.—The term ''medication and regulatory experts'' means organizations or associations that are actively involved in the establishment of equine medication standards, or groups or associations representing entities responsible for the current regulation of the equine industry, or groups or associations representing equine practitioners and veterinarians.

(12) OWNERS AND BREEDERS.—The term ''owners and breeders'' means those persons who either hold ownership interests in covered horses or who are in the business of breeding covered horses.

(13) PROHIBITED METHODS.—The term ''prohibited methods'' means any methods that are on the list of prohibited methods identified in section 6(g).

(14) PROHIBITED SUBSTANCES.—The term ''prohibited substances'' means any substances that are on the list of prohibited substances identified in section 6(g).

(15) PERMITTED METHODS.—The term ''permitted methods'' means those methods identified in the list of permitted methods identified in section 6(g).

(16) PERMITTED SUBSTANCES.—The term ''permitted substances'' means those substances contained in the list of permitted substances identified in section 6(g).

(17) RACETRACK.—The term ''racetrack'' means an organization licensed by a State racing commission to conduct covered horseraces.

(18) STATE RACING COMMISSION.—The term ''State racing commission'' means that entity designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate the conduct of horseracing within the State.

(19) TRAINERS.—The term ''trainer'' means an individual engaged in the training of covered horses.

(20) VETERINARIAN.—The term ''veterinarian'' means a licensed veterinarian who provides veterinary services to covered horses.

(21) WORKOUT.—The term ''workout'' means a timed running of a horse over a predetermined distance not associated with a race or, with regard to a horse taking part in harness or pace racing, its first qualifying race.

SEC. 4. JURISDICTION FOR HORSERACING ANTI-DOPING AND MEDICATION CONTROL MATTERS.

(a) IN GENERAL.—Effective upon the effective date of the anti-doping and medication control program as set forth in section 11, the Authority shall exercise authority over all horseracing anti-doping and medication control matters consistent with the provisions of this Act.

(b) POWERS AND AUTHORITY.—

(1) IN GENERAL.—The Authority shall be established as a private, independent, self-regulatory, nonprofit corporation with responsibility for developing and administering an anti-doping and medication control program for covered horses, covered persons, and covered horseraces consistent with the provisions of this Act.

(2) POWERS.—The Authority—

(A) shall have the same anti-doping and medication control powers over horseracing licensees as the State racing commissions have in their respective States with respect to—

(i) access to offices, track facilities, and other places of business of licensees;

(ii) search and seizure;

(iii) issuance and enforcement of subpoenas and subpoenas duces tecum; and

(iv) other investigatory powers; and

(B) with respect to an unfair or deceptive act or practice described in section 7, may recommend that the Commission commence an enforcement action.

(3) CONSENT.—As a condition of eligibility to participate in covered horseraces, covered persons agree that they and their covered horses shall be bound by the provisions of the horseracing anti-doping and medication control program established in accordance with section 6.

(c) EXCLUSIVE JURISDICTION AND OVERSIGHT.—

(1) JURISDICTION OF COMMISSION.—The Commission shall have exclusive jurisdiction over all horseracing anti-doping and medication control matters consistent with this Act.

(2) ACTIVITIES OF AUTHORITY.—The Authority shall engage in activities in accordance with such rules as are approved pursuant to this Act.

(d) GUIDING PRINCIPLES.—In carrying out the provisions of this Act, the Commission and the Authority shall be guided by the findings and principles contained in section 2.

(e) STATE COMPACT.—The jurisdiction and authority granted to the Commission and the Authority under this Act shall terminate if, at any time after the expiration of five years following the effectiveness of the anti-doping and medication control program—

(1) an interstate compact is established that includes among its members 75 percent of the States in which starts in covered races occurred during the calendar year preceding the formation of the compact and those States which collectively hosted not less than 90 percent of the total racing starts of covered horses in covered races for the two-year period preceding the formation of the compact; and

(2)(A) all member States enter into and maintain an agreement with the Authority for services consistent with the anti-doping and medication control program provided for in section 6 in those States; or

(B) the compact is drafted with public input from horseracing industry constituencies (including trainers, owners, the breed registry, veterinarians,

regulators, race tracks, testing laboratories, bettors, and jockeys) by persons who conform to the conflict of interest restrictions set forth in section 5(d); obligates the compact to pay the costs of winding down the Authority and transitioning its operations to the compact; provides for uniform anti-doping and medication control regulations among all member States, consistent with section 6 and no less restrictive than the Authority's most recent anti-doping and medication control program; and is governed and maintained by a board, which would include among its members persons meeting the requirements of section 5(b), each board member conforming to the conflict of interest restrictions set forth in section 5(d).

The consent of Congress is hereby given to interstate compacts meeting the requirements referenced in section 5(h).

SEC. 5. ESTABLISHMENT OF HORSERACING ANTI-DOPING AND MEDICATION CONTROL AUTHORITY.

(a) ESTABLISHMENT.—There is established the Horseracing Anti-doping and Medication Control Authority, a private, independent, self-regulatory, nonprofit corporation with responsibility for developing and administering an anti-doping and medication control program

for covered horses, covered persons, and covered horseraces.

(b) COMPOSITION.—The Authority shall be governed by a board (in this section referred to as the ''Board'') which shall be comprised of the following:

(1) The chief executive officer of the United States Anti-Doping Agency.

(2) Six individuals, selected by the United States Anti-Doping Agency from among members of the board of the United States Anti-Doping Agency.

(3) Six individuals selected by the United States Anti-Doping Agency—

(A) from among individuals who represent different equine industry constituencies; and

(B) such that—

(i) at least 1 member has expertise in equine anti-doping and medication control regulation;

(ii) at least 1 member has significant experience as an owner of covered horses or is a person with expertise in the breeding of race horses;

(iii) at least 1 member was formerly employed as an executive with a racetrack;

(iv) at least 1 member has a degree in veterinary medicine and either has expertise in equine veterinary practice with regard to race horses or expertise in veterinary research in matters affecting race horses;

(v) at least 1 member has expertise in training covered horses; and

(vi) at least 1 member has expertise in riding covered horses as a jockey.

(c) SELECTION METHODOLOGY.—In selecting individuals under subsection (b), the United States Anti-Doping Agency shall—

(1) solicit lists of 2 candidates each from a cross-section of equine industry representatives;

(2) endeavor to provide diversity among the Board's membership between persons primarily involved with the 3 breeds of racehorses, to the greatest extent practicable and consistent with the standards for Board membership set forth in this section;

(3) if Board positions remain unfilled from the lists solicited under paragraph (1), ask organizations, groups, and associations that represent the various equine constituencies set forth in subsection (b)(3)(B) to submit an additional 2 candidates from

which the Agency may fill the remaining open Board positions; and

(4) if Board positions remain unfilled from the second set of candidate lists, choose, in accordance with subsection (b), one or more persons at large with substantial experience in the equine industry and meets the qualifications of the person described in subsection (b) whose position on the Board remains to be filled.

(d) CONFLICTS OF INTEREST.—To avoid any conflict of interest, no member of the Board shall be—

(1) an individual who has a financial interest in or provides goods or services to covered horses;

(2) an official or officer of any equine industry representative or serve in any governance or policy-making capacity for an equine industry representative; or

(3) an employee or have a business or commercial relationship with any of the individuals or organizations described in paragraph (1) or (2).

(e) TERMS; VACANCIES.—

(1) STAGGERED TERMS.—The terms of members of the Board shall be 3 years and shall be staggered so that the terms of no more than 5 members of the Board expire in any year.

(2) LIMITATION ON CONSECUTIVE TERMS.—Members of the Board may serve for no more than 2 consecutive full terms.

(3) VACANCIES.—Vacancies among Board positions held by equine industry candidates shall be filled pursuant to the provisions of subsection (b) and any other vacancies shall be filled pursuant to the provisions of the rules of the Authority. At any time after the expiration of 5 years following the date on which initial selection and appointment of the members of the Board of the Authority is completed under section 5, the United States Anti-Doping Agency may withdraw from participation in the Authority and direct its chief executive officer and board members to resign their memberships on the Board of the Authority. Following receipt of such resignations by the Authority, the remaining members of the Board of the Authority shall select new Board members to fill the vacant positions in the same manner as is provided in paragraphs (1) through (4) of subsection (c).

(f) STANDING COMMITTEES.—

(1) IN GENERAL.—The Authority shall establish one or more standing advisory and technical committees, which shall include qualified representa-

tives from horseracing industry constituencies, including trainers, owners, the breed registry, veterinarians, regulators, race tracks, testing laboratories, bettors, and jockeys.

(2) COMMITTEE ON DEVELOPMENT AND MAINTENANCE OF THE HORSERACING ANTI-DOPING AND MEDICATION CONTROL PROGRAM.—The Authority shall establish a standing advisory committee, which shall include medication and regulatory experts and other representatives from horseracing industry constituencies, to provide advice and guidance to the Board on the development and maintenance of the horseracing anti-doping and medication control program.

(3) CHAIRPERSON OF COMMITTEE ON PERMITTED AND PROHIBITED SUBSTANCES AND METHODS.—The Authority shall appoint the Board member selected pursuant to subsection (b)(3)(B)(i) to serve as the chairperson of the standing advisory and technical committee on permitted and prohibited substances and methods.

(4) DUTIES.—The committees established under paragraph (1) shall assist the Authority in establishing and administering the horseracing anti-doping and medication control program.

(5) COMMITTEE CONFLICTS OF INTEREST.—No standing committee members, other than those who are members of the Board of the Authority or employees of the Authority, shall be subject to the conflict of interest provisions set forth in section 5(d).

(g) ADMINISTRATION OF THE AUTHORITY.—

(1) ADMINISTRATIVE STRUCTURE.—The Authority shall establish an administrative structure and employ among its staff employees with sufficient experience in and knowledge of equine-related and anti-doping and medication control matters as appropriate to carry out the responsibilities set forth in this Act.

(2) EMPLOYEES GENERALLY.—The Board of the Authority shall select the Authority's chief executive officer. All Authority employees shall serve at the pleasure of the Authority's chief executive officer. All Authority employees shall be subject to the conflict of interest revisions applicable to members of the Board of the Authority as set forth in section 5(d).

(h) OVERSIGHT OF RULES PRESCRIBED BY THE AUTHORITY.—

(1) FILING REQUIREMENT.—The Authority shall file with the Commission, in accordance with

such rules as the Commission may prescribe, copies of any proposed rule or change to any rule (collectively ''proposed rule'') of the Authority. Proposed rule means the lists of permitted and prohibited substances; laboratory standards for accreditation and protocols; schedules of sanctions for violations; processes and procedures for disciplinary hearings; and formula and methodology for determining assessments set out in section 12(d).

(2) PUBLICATION AND COMMENT.—

(A) IN GENERAL.—The Commission shall publish the proposed rule and provide interested persons an opportunity to comment.

(B) APPROVAL REQUIRED.—No proposed rule shall take effect unless it has been approved by the Commission.

(3) APPROVAL.—

(A) PERIOD.—The Commission shall approve or disapprove a proposed rule no later than 45 days after the proposed rule is published.

(B) CONDITIONS.—The Commission shall approve a proposed rule if it finds that such proposed rule is consistent with the require-

ments of this Act and the rules and regulations promulgated by the Commission.

(i) OVERSIGHT OF FINAL DECISIONS OF THE AUTHORITY.—

(1) NOTICE OF SANCTIONS.—If the Authority imposes any final sanction, the Authority shall promptly file notice thereof with the Commission in such form as the Commission may require.

(2) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

(A) APPLICATION FOR REVIEW.—All final sanctions of the Authority shall be subject to review by an administrative law judge appointed pursuant to this Act upon application by the Commission or any person aggrieved by such final sanction filed within 30 days after the date such notice was filed with the Commission.

(B) APPOINTMENT OF ADMINISTRATIVE LAW JUDGE.—The Commission shall appoint one or more administrative law judges to serve a term of seven years unless earlier removed by the Commission for cause. At the time of his/her appointment, the administrative law judge shall have been a practicing lawyer for at least ten years and shall have demonstrated expertise

in matters relating to horseracing and anti-doping and medication control.

(C) NATURE OF REVIEW.—In matters reviewed pursuant to this subsection, the administrative law judge shall conduct a hearing in a manner as the Commission may specify by rule. Such hearing shall conform to section 556 of title 5, United States Code. The administrative law judge shall determine whether—

(i) a person has engaged in such acts or practices or has omitted such acts or practices as the Authority has found the person to have engaged in or omitted; and

(ii) such acts, practices, or omissions are in violation of the Act or the anti-doping and medication control rules approved by the Commission.

(D) DECISION BY ADMINISTRATIVE LAW JUDGE.—The administrative law judge shall render a decision within 60 days of the conclusion of the hearing. Such decision may affirm, reverse, modify, set aside, or remand for further proceedings, in whole or in part, the final sanction of the Authority. Such decision shall constitute the decision of the Commission without

further proceedings unless there is a timely notice or application for review filed pursuant to paragraph (3).

(3) REVIEW BY COMMISSION.—

(A) NOTICE OF REVIEW BY COMMISSION.—The Commission may, on its own motion, review any decision of the administrative law judge rendered pursuant to subsection (i)(2) by giving notice thereof to the Authority and interested parties within 30 days of the decision by the administrative law judge.

(B) APPLICATION FOR REVIEW.—The Authority or any person aggrieved by the decision of an administrative law judge rendered pursuant to subsection (i)(2) may petition the Commission to review such decision by filing an application for review within 30 days of the rendering of such decision. If such application is denied, the decision of the administrative law judge shall constitute the decision of the Commission without further proceedings. Whether to grant review is within the Commission's discretion, provided however that the Commission may grant review only where the application therefor demonstrates:

(i) a prejudicial error was committed in the conduct of the proceeding; or

(ii) the decision embodies an erroneous application of the anti-doping and medication rules previously approved by the Commission.

(C) NATURE OF REVIEW.—In matters reviewed pursuant to this subsection, the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, on the basis of the record before the administrative law judge and briefs submitted to the Commission. The Commission shall give deference to a factual finding by the administrative law judge unless such finding is clearly erroneous. The Commission shall review a conclusion of law by the administrative law judge de novo. The Commission shall not permit the taking of additional evidence except upon a showing that such additional evidence is material and that such evidence could not in the exercise of reasonable diligence have been adduced previously.

(4) STAY OF PROCEEDINGS.—Review by an administrative law judge or the Commission pursuant

to subsection (i) shall not operate as a stay of any final sanction of the Authority unless the administrative law judge or Commission otherwise orders.

SEC. 6. HORSERACING ANTI-DOPING AND MEDICATION CONTROL PROGRAM REQUIRED.

(a) PROGRAM REQUIRED.—Not later than 1 year after the date on which initial selection and appointment of the members of the board of the Authority is completed under section 5 and after notice to and with appropriate opportunity for comment from equine industry representatives and the public, the Authority shall develop and administer the horseracing anti-doping and medication control program for covered horses, covered persons, and covered horseraces. To the extent practicable, such program shall take into account the unique characteristics of each separate breed of horse.

(b) ELEMENTS OF PROGRAM.—The horseracing anti-doping and medication control program shall include the following:

(1) A uniform set of anti-doping and medication control rules.

(2) Lists of permitted and prohibited substances (which may include, without limitation, drugs, medications, naturally occurring substances

and synthetically occurring substances) and methods.

(3) A prohibition upon the administration of any prohibited or otherwise permitted substance to a covered horse within 24 hours of its next racing start, which shall be effective not later than January 1, 2019.

(4) A process for sample collection.

(5) Programs for in-competition and out-of-competition testing (including no-advance-notice testing and mandatory reporting of each horse's location for testing).

(6) Testing procedures, standards, and protocols for both in-competition and out-of-competition testing.

(7) Laboratory standards for accreditation and testing requirements, procedures, and protocols.

(8) The undertaking of investigations at racetrack and non-racetrack facilities related to anti-doping and medication control rule violations.

(9) Procedures for investigating, charging, and adjudicating violations and for the enforcement of sanctions for violations.

(10) A schedule of sanctions for violations.

(11) Disciplinary hearings, which may include binding arbitration, sanctions and research.

(12) Management of violation results.

(13) Programs relating to anti-doping and medication control research and education.

(c) APPLICABILITY TO COVERED HORSES AND PERSONS.—

(1) IN GENERAL.—The equine horseracing anti-doping and medication control program developed and administered pursuant to subsection (a) shall apply to all covered horses, covered persons, and covered horseraces.

(2) AGREEMENT BY COVERED PERSONS.—As a condition of eligibility to participate in covered horseraces, covered persons shall agree that they and their covered horses shall be bound by the provisions of the horseracing anti-doping and medication control program.

(d) LIMITATION OF AUTHORITY.—

(1) PROSPECTIVE APPLICATION.—The jurisdiction and authority of the Commission and Authority with respect to the horseracing anti-doping and medication control program shall be prospective only.

(2) NO AUTHORITY OVER PREVIOUS MATTERS.—Neither the Commission nor the Authority shall have authority or responsibility to investigate, prosecute, adjudicate, or penalize conduct occurring prior to the effective date of the horseracing anti-doping and medication control program.

(3) PRESERVATION OF STATE RACING COMMISSION AUTHORITY OVER PREVIOUS MATTERS.—State racing commissions shall retain authority over matters described in paragraph (2) until the final resolution of any resulting charges.

(e) CONSIDERATIONS.—The horseracing anti-doping and medication control program shall take into consideration international anti-doping and medication control standards, including the World Anti-Doping Code and the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association, that could be applicable to the horseracing anti-doping and medication control program.

(f) UPDATES.—The Authority shall update the horseracing anti-doping and medication control program from time to time.

(g) LISTS OF PROHIBITED SUBSTANCES AND METHODS.—

(1) IN GENERAL.—The Authority shall, by rule develop, maintain, and publish lists of permitted and prohibited substances and methods.

(2) CONTENTS.—The initial list, which shall be subject to such future changes as the Authority considers appropriate and which shall be in effect until amended by the Authority, of prohibited substances and methods shall include any substance or method that is included on either—

(A) class 1, 2, 3, and 4 drugs, medications, and substances in the Uniform Classification Guidelines for Foreign Substances of the Association of Racing Commissioners International, Version 14.0, revised January 2019; or

(B) the World Anti-Doping Code International Standard Prohibited List, January 2019,

unless and to the extent that such a substance or method described in subparagraph (A) or (B) is contained on the list of permitted substances and methods identified on the Association of Racing Commissioners International Controlled Therapeutic Medication Schedule for Horses, Version 4.1, revised January 2019.

(3) DEADLINES FOR LISTS.—

(A) DEVELOPED AND PUBLISHED.—The lists of permitted and prohibited substances and methods, including all modifications to the initial lists, shall be developed and published not later than the date that is 120 days before the date on which the horseracing anti-doping and medication control programs goes into effect under section 6(a).

(B) EFFECTIVE.—The lists described in subparagraph (A) shall take effect on the date that is 1 year after the date on which initial selection and appointment of the members of the board of the Authority is completed under section 5.

(4) PERIODIC REVIEW.—

(A) IN GENERAL.—The inclusion of permitted or prohibited substances or methods on the lists shall be subject to periodic review by the Authority, which shall be subject to review by the Commission under section 4, for modification, substitution, addition to, or deletion from the lists.

(B) ESTABLISHMENT OF NOTICE, CONSULTATION, AND COMMENT PROCESS.—The Authority shall establish a notice, consultation,

and comment process for the periodic reviews carried out under subparagraph (A) that involves industry representatives and the public.

(h) ANTI-DOPING AND MEDICATION CONTROL RULE VIOLATIONS.—

(1) IN GENERAL.—The Authority, after notice to and with appropriate opportunity for comment from industry representatives and the public, shall establish, by rule, a list of anti-doping and medication control rule violations applicable to either horses or covered persons.

(2) ELEMENTS.—The list established under paragraph (1) may include the following:

(A) Strict liability for the presence of a prohibited substance or method in a horse's sample or the use of a prohibited substance or method.

(B) Strict liability for the presence of a permitted substance in a horse's sample in excess of the amount allowed by the horseracing anti-doping and medication control program.

(C) Strict liability for the use of a permitted method in violation of the applicable limitations established within the horseracing and medication control program.

(D) Attempted use of a prohibited substance or method.

(E) Possession of any prohibited substance or method.

(F) Attempted possession of any prohibited substance or method.

(G) Administration or attempted administration of any prohibited substance or method.

(H) Refusing or failing without compelling justification to submit a horse for sample collection.

(I) Tampering or attempted tampering with any part of doping control.

(J) Trafficking or attempted trafficking in any prohibited substance or method and complicity in any anti-doping and medication control rule violation.

(i) TESTING LABORATORIES.—

(1) IN GENERAL.—Not later than 1 year after the date on which initial selection and appointment of the members of the board of the Authority is completed under section 5, the Authority shall establish by rule standards of accreditation for laboratories involved in the testing of samples taken from covered horses, the process for achieving and main-

taining accreditation, and the standards and protocols for testing of samples.

(2) EXTENSION OF PROVISIONAL OR INTERIM ACCREDITATION.—The Authority may, by rule, extend provisional or interim accreditation to laboratories accredited by the Racing Medication and Testing Consortium, Inc.

(3) SELECTION OF LABORATORIES BY STATES.—Each State racing commission, if it so elects, shall determine the laboratory to be used in testing samples taken within its jurisdiction, provided that the laboratory selected has been accredited by, and complies with the testing protocols and standards established by, the Authority.

(4) SELECTION OF LABORATORIES BY THE AUTHORITY.—If a State racing commission does not elect to determine the laboratory to be used in testing samples taken within its jurisdiction, the Authority shall by rule, make the selection.

(j) RESULTS MANAGEMENT AND DISCIPLINARY PROCESS.—

(1) IN GENERAL.—Not later than 1 year after the date on which initial selection and appointment of the members of the board of the Authority is completed under section 5, the Authority, after no-

tice to and with appropriate opportunity for comment from equine industry representatives and the public, shall promulgate rules for anti-doping and medication control results management and the disciplinary process for anti-doping and medication control rule violation results management, including the following:

(A) Provisions for notification of anti-doping and medication control rule violations.

(B) Hearing procedures.

(C) Burden of proof.

(D) Presumptions.

(E) Evidentiary rules.

(F) Appeals.

(G) Guidelines for confidentiality and public reporting of decisions.

(2) DUE PROCESS.—The rules promulgated under paragraph (1) shall provide for adequate due process, including impartial hearing officers or tribunals commensurate with the seriousness of the alleged anti-doping and medication control rule violation and the possible sanctions for such violation.

(k) SANCTIONS.—

(1) IN GENERAL.—The Authority, after notice to and with appropriate opportunity for comment

from industry representatives and the public, shall promulgate uniform rules imposing sanctions against covered persons or covered horses for anti-doping and medication control rule violations.

(2) REQUIREMENTS.—The rules promulgated under paragraph (1) shall—

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

(B) be designed to ensure fair and transparent horseraces; and

(C) deter the commission of anti-doping and medication control rule violations.

(3) SEVERITY.—The rules promulgated under paragraph (1) shall impose sanctions up to and including lifetime bans from horseracing, disgorgement of purses, monetary fines and penalties and changes to the order of finish in covered races. The sanctioning rules shall also include opportunities for anti-doping and medication control rule violators to reduce the otherwise applicable sanctions generally comparable to those opportunities afforded by the United States Anti-Doping Agency's Protocol for Olympic Movement Testing.

(l) ENFORCEMENT.—In addition to any penalties or sanctions imposed in accordance with the provisions of the

horseracing anti-doping and medication control program, whenever it shall appear to the Authority that one has engaged, is engaged or is about to engage in acts or practices constituting a violation of any provision of this Act or the horseracing anti-doping and medication control program, the Authority may commence a civil action against such covered person or any racetrack in the proper district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, to enforce any fines, penalties or other sanctions imposed in accordance with the provisions of the anti-doping and medication control program and for all other relief to which the Authority may be entitled. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(m) PERIODIC ASSESSMENTS BY COMPTROLLER GENERAL OF THE UNITED STATES.—

(1) ASSESSMENTS.—Following the third anniversary of the date on which the anti-doping and medication control program identified in section 6 takes effect and not less frequently than once every 4 years thereafter, the Comptroller General of the United States shall review and analyze results of the

such program in comparison to the results of similar equine anti-doping and medication control programs in major foreign racing jurisdictions.

(2) GATHERING ASSESSMENTS FROM INDUSTRY REPRESENTATIVES.—In conjunction with review and analysis required by paragraph (1), the Comptroller General may invite persons representing the significant facets of the horseracing industry, including associations and individuals representing racetracks, breeders, owners, trainers, veterinarians, jockeys, bettors, equine researchers, and organizations dedicated to the welfare and safety of covered horses, to collectively meet with and provide testimony to the Comptroller General for the purpose of gathering further assessments on the performance and effectiveness of the Authority and the anti-doping and medication control program.

(3) REPORTS.—Upon the conclusion of a review and analysis under paragraph (1), the Comptroller General shall submit to Congress a report on such review and analysis with an assessment of the performance of the Authority and the Commission concerning their effectiveness as an anti-doping and medication control organization and the efficiency of

the horseracing anti-doping and medication control program.

SEC. 7. UNFAIR OR DECEPTIVE ACTS OR PRACTICES.

The sale of a Thoroughbred, Quarter, or Standardbred horse shall be considered an unfair or deceptive act or practice in or affecting commerce under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) if the seller —

(a) knows or has reason to know the horse has been administered—

(1) a bisphosphonate; or

(2) any other substance that the Authority determines has a long-term degrading effect on the soundness of the horse; and

(b) fails to disclose to the buyer the administration of the bisphosphonate or other substance.

SEC. 8. OTHER LAWS UNAFFECTED.

This Act shall not be construed to modify, impair, or restrict the operation or effectiveness of State or Federal statutes and regulations directed at—

(1) any of the consents, approvals, or agreements required by the Interstate Horseracing Act of 1978;

(2) criminal conduct by covered persons and others;

(3) horseracing matters unrelated to anti-doping and medication control as addressed in this Act; or

(4) the use of medication in human participants in covered races.

SEC. 9. STATE DELEGATION; DUTY OF COOPERATION.

(a) STATE DELEGATION.—

(1) IN GENERAL.—The Authority may enter into agreements with one or more State racing commissions to implement within their respective jurisdictions any of the components of the horseracing anti-doping and medication control program established by the Authority if the Authority determines that a particular State racing commission will be able to implement a component of the horseracing anti-doping and medication control program in accordance with the standards and requirements established by the Authority.

(2) DURATION OF AGREEMENTS.—Any agreement entered into under paragraph (1) shall remain in effect as long as the Authority determines the applicable racing commission to be implementing the components of the medication regulation program covered by the agreement in compliance with the

standards and requirements established by the Authority.

(b) DUTY OF COOPERATION.—Where conduct by any person subject to the horseracing anti-doping and medication control program may involve both an anti-doping and medication control rule violation and violation of State or Federal law, this Act imposes a duty to cooperate and share information between the Authority and State and Federal law enforcement authorities.

SEC. 10. RULES OF CONSTRUCTION.

The Authority shall not have the power to impose criminal sanctions and shall not be considered nor construed to be an agent of, or an actor on behalf of, the United States Government or any State.

SEC. 11. EFFECTIVE DATE.

(a) IN GENERAL.—The horseracing anti-doping and medication control program shall take effect not later than the date that is 1 year after the date on which initial selection and appointment of the members of the board of the Authority is completed under section 5.

(b) TRANSITION.—The Authority and State regulatory authorities shall work cooperatively to develop transition rules with respect to doping conduct, sanctions, and investigations arising prior to the effective date of the horseracing anti-doping and medication control program.

SEC. 12. FUNDING.

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

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

(2) the Federal Government to guarantee the debts of the Authority.

(b) INITIAL FUNDING.—

(1) IN GENERAL.—Initial funding to establish the Authority and underwrite its operations prior to the effective date shall be provided by loans obtained by and donations made to the Authority.

(2) BORROWING AND ACCEPTING DONATIONS.—The Authority may borrow money and accept private donations and contributions toward the funding of its operations.

(3) ANNUAL CALCULATION OF AMOUNTS REQUIRED.—

(A) IN GENERAL.—Not later than the date that is 90 days before the date set forth in section 11(a) and not later than November 1 of each year thereafter, the Authority shall determine and provide to each State racing commission the estimated amount required per racing starter to fund the horseracing anti-doping and medication control program for the coming year

and to liquidate any loans or funding shortfall in the current year and any prior years.

(B) BASIS OF CALCULATION.—The amount calculated under subparagraph (A) shall be based upon the annual budget of the Authority for the succeeding year, as approved by the board of the Authority.

(C) REQUIREMENTS REGARDING BUDGETS OF AUTHORITY.—The Authority's initial budget shall require the approval of ⅔ of its board and any subsequent budget that exceeds the preceding year's budget by more than 5 percent shall also require the approval of ⅔ of the board of the Authority.

(c) ASSESSMENT AND COLLECTION OF FEES BY STATES.—

(1) NOTICE OF ELECTION.—Any State racing commission that elects to remit fees pursuant to this subsection shall notify the Authority of such election at least 60 days prior to the adoption of the horseracing anti-doping and medication control program.

(2) REQUIREMENT TO REMIT FEES.—Once a State racing commission makes such notification, the election shall remain in effect and the State rac-

ing commission shall be required to remit fees pursuant to this subsection.

(3) WITHDRAWAL OF ELECTION.—A State racing commission may withdraw its election after providing notice to the Authority of its intent to cease remitting fees pursuant to this subsection not later than 1 year before ceasing such remitting.

(4) SCHEDULE OF REMITTANCE.—Each State racing commission that elects to remit fees shall remit to the Authority on or before the 20th day of each calendar month an amount equal to the applicable fee per racing start multiplied by the number of racing starts in the State in the previous month.

(5) DETERMINATIONS OF METHODS.—Each State racing commission shall determine, subject to the applicable laws and regulations of the State, the method by which the requisite amount shall be allocated, assessed, and collected.

(6) SENSE OF CONGRESS.—It is the sense of Congress that funding mechanisms imposed by State racing commissions should apportion the funding burden fairly among all impacted segments of the horseracing industry and may include check-off programs.

(d) ASSESSMENT AND COLLECTION OF FEES BY THE AUTHORITY.—

(1) CALCULATION.—In the event a State racing commission does not elect to remit fees pursuant to subsection (c) or withdraws its election under such subsection, the Authority shall calculate each month the applicable fee per racing start multiplied by the number of racing starts in the State in the previous month.

(2) ALLOCATION.—The Authority shall equitably allocate that amount calculated under paragraph (1), among those involved in covered horseraces pursuant to such rules as the Authority may promulgate, subject to review by the Commission under section 4.

(3) ASSESSMENT.—The Authority shall assess a fee equal to the allocation made under paragraph (2) and shall collect such fee according to such rules as the Authority may promulgate, subject to such Commission review.

(4) LIMITATION.—A State racing commission that does not elect to remit fees pursuant to subsection (c) or that withdraws its election under such subsection shall not impose or collect from any per-

son a fee or tax relating to anti-doping and medication control matters for covered horseraces.

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