

116TH CONGRESS
2D SESSION

S. 4547

To improve the integrity and safety of horseracing by requiring uniform safety and performance standards, including a horseracing anti-doping and medication control program and a racetrack safety program to be developed and enforced by an independent Horseracing Integrity and Safety Authority, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 9, 2020

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

A BILL

To improve the integrity and safety of horseracing by requiring uniform safety and performance standards, including a horseracing anti-doping and medication control program and a racetrack safety program to be developed and enforced by an independent Horseracing Integrity and Safety Authority, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

6 (2) **COMMISSION.**—The term “Commission”
7 means the Federal Trade Commission.

8 (3) **COVERED HORSE.**—The term “covered
9 horse” means any Thoroughbred horse, or any other
10 horse made subject to this Act by election of the ap-
11 plicable State racing commission or the breed gov-
12 erning organization for such horse under section
13 5(k), during the period—

14 (A) beginning on the date of the horse’s
15 first timed and reported workout at a racetrack
16 that participates in covered horseraces or at a
17 training facility; and

18 (B) ending on the date on which the Au-
19 thority receives written notice that the horse
20 has been retired.

21 (4) **COVERED HORSERACE.**—The term “covered
22 horserace” means any horserace involving covered
23 horses that has a substantial relation to interstate
24 commerce, including any Thoroughbred horserace
25 that is the subject of interstate off-track or advance
26 deposit wagers.

1 (5) COVERED PERSONS.—The term “covered
 2 persons” means all trainers, owners and breeders,
 3 jockeys, racetracks, veterinarians, persons (legal and
 4 natural) licensed by a State racing commission and
 5 the agents, assigns, and employees of such persons
 6 and other horse support personnel who are engaged
 7 in the care, training, or racing of covered horses.

8 (6) EQUINE CONSTITUENCIES.—The term
 9 “equine constituencies” means, collectively, owners
 10 and breeders, trainers, racetracks, veterinarians,
 11 State racing commissions, and jockeys who are en-
 12 gaged in the care, training, or racing of covered
 13 horses.

14 (7) EQUINE INDUSTRY REPRESENTATIVE.—The
 15 term “equine industry representative” means an or-
 16 ganization regularly and significantly engaged in the
 17 equine industry, including organizations that rep-
 18 resent the interests of, and whose membership con-
 19 sists of, owners and breeders, trainers, racetracks,
 20 veterinarians, State racing commissions, and jock-
 21 eys.

22 (8) HORSERACING ANTI-DOPING AND MEDICA-
 23 TION CONTROL PROGRAM.—The term “horseracing
 24 anti-doping and medication control program” means

1 the anti-doping and medication program established
2 under section 6(a).

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

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

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

14 (12) OWNERS AND BREEDERS.—The term
15 “owners and breeders” means those persons who ei-
16 ther hold ownership interests in covered horses or
17 who are in the business of breeding covered horses.

18 (13) PROGRAM EFFECTIVE DATE.—The term
19 “program effective date” means the earlier of—

20 (A) January 1 of the second year after the
21 date of the enactment of this Act; or

22 (B) the date that is 540 days after such
23 date of enactment.

1 (14) RACETRACK.—The term “racetrack”
2 means an organization licensed by a State racing
3 commission to conduct covered horseraces.

4 (15) RACETRACK SAFETY PROGRAM.—The term
5 “racetrack safety program” means the program es-
6 tablished under section 7(a).

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

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

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

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

1 (20) VETERINARIAN.—The term “veterinarian”
 2 means a licensed veterinarian who provides veteri-
 3 nary services to covered horses.

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

11 **SEC. 3. RECOGNITION OF THE HORSERACING INTEGRITY**
 12 **AND SAFETY AUTHORITY.**

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

20 (b) BOARD OF DIRECTORS.—

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

1 (A) INDEPENDENT MEMBERS.—Five mem-
 2 bers of the Board shall be independent mem-
 3 bers selected from outside the equine industry.

4 (B) INDUSTRY MEMBERS.—

5 (i) IN GENERAL.—Four members of
 6 the Board shall be industry members se-
 7 lected from among the various equine con-
 8 stituencies.

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

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

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

20 (A) the administrative structure and em-
 21 ployees of the Authority;

22 (B) the establishment of standing commit-
 23 tees;

24 (C) the procedures for filling vacancies on
 25 the Board and the standing committees;

1 (D) term limits for members and termi-
 2 nation of membership; and

3 (E) any other matter the Board considers
 4 necessary.

5 (c) STANDING COMMITTEES.—

6 (1) ANTI-DOPING AND MEDICATION CONTROL
 7 STANDING COMMITTEE.—

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

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

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

21 (ii) INDUSTRY MEMBERS.—A minority
 22 of the members shall be industry members
 23 selected to represent the various equine
 24 constituencies, and shall include not more

than one industry member from any one
equine constituency.

(iii) QUALIFICATION.—A majority of
individuals selected to serve on the anti-
doping and medication control standing
committee shall have significant, recent ex-
perience in anti-doping and medication
control rules.

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

(2) RACETRACK SAFETY STANDING COM-
MITTEE.—

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

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

(i) INDEPENDENT MEMBERS.—A ma-
jority of the members shall be independent

1 members selected from outside the equine
2 industry.

3 (ii) INDUSTRY MEMBERS.—A minority
4 of the members shall be industry members
5 selected to represent the various equine
6 constituencies.

7 (C) CHAIR.—The chair of the racetrack
8 safety standing committee shall be an industry
9 member of the Board described in subsection
10 (b)(1)(B).

11 (d) NOMINATING COMMITTEE.—

12 (1) MEMBERSHIP.—

13 (A) IN GENERAL.—The nominating com-
14 mittee of the Authority shall be comprised of
15 seven independent members selected from busi-
16 ness, sports, and academia.

17 (B) INITIAL MEMBERSHIP.—The initial
18 nominating committee members shall be set
19 forth in the governing corporate documents of
20 the Authority.

21 (C) VACANCIES.—After the initial com-
22 mittee members are appointed in accordance
23 with subparagraph (B), vacancies shall be filled
24 by the Board pursuant to rules established by
25 the Authority.

1 (2) CHAIR.—The chair of the nominating com-
2 mittee shall be selected by the nominating committee
3 from among the members of the nominating com-
4 mittee.

5 (3) SELECTION OF MEMBERS OF THE BOARD
6 AND STANDING COMMITTEES.—

7 (A) INITIAL MEMBERS.—The nominating
8 committee shall select the initial members of
9 the Board and the standing committees de-
10 scribed in subsection (c).

11 (B) SUBSEQUENT MEMBERS.—The nomi-
12 nating committee shall recommend individuals
13 to fill any vacancy on the Board or on such
14 standing committees.

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

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

21 (2) An official or officer—

22 (A) of an equine industry representative;
23 or

1 (B) who serves in a governance or policy-
 2 making capacity for an equine industry rep-
 3 resentative.

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

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

9 (f) FUNDING.—

10 (1) INITIAL FUNDING.—

11 (A) IN GENERAL.—Initial funding to es-
 12 tablish the Authority and underwrite its oper-
 13 ations before the program effective date shall be
 14 provided by loans obtained by the Authority.

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

17 (C) ANNUAL CALCULATION OF AMOUNTS
 18 REQUIRED.—

19 (i) IN GENERAL.—Not later than the
 20 date that is 90 days before the program ef-
 21 fective date, and not later than November
 22 1 each year thereafter, the Authority shall
 23 determine and provide to each State racing
 24 commission the estimated amount required
 25 from the State—

1 (I) to fund the State's propor-
 2 tionate share of the horseracing anti-
 3 doping and medication control pro-
 4 gram and the racetrack safety pro-
 5 gram for the next calendar year; and

6 (II) to liquidate the State's pro-
 7 portionate share of any loan or fund-
 8 ing shortfall in the current calendar
 9 year and any previous calendar year.

10 (ii) BASIS OF CALCULATION.—The
 11 amounts calculated under clause (i) shall—

12 (I) be based on—

13 (aa) the annual budget of
 14 the Authority for the following
 15 calendar year, as approved by the
 16 Board; and

17 (bb) the projected amount of
 18 covered racing starts for the year
 19 in each State; and

20 (II) take into account other
 21 sources of Authority revenue.

22 (iii) REQUIREMENTS REGARDING
 23 BUDGETS OF AUTHORITY.—

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

4 (II) SUBSEQUENT BUDGETS.—
 5 Any subsequent budget that exceeds
 6 the budget of the preceding calendar
 7 year by more than 5 percent shall re-
 8 quire the approval of $\frac{2}{3}$ of the Board.

9 (iv) RATE INCREASES.—

10 (I) IN GENERAL.—A proposed in-
 11 crease in the amount required under
 12 this subparagraph shall be reported to
 13 the Commission.

14 (II) NOTICE AND COMMENT.—
 15 The Commission shall publish in the
 16 Federal Register such a proposed in-
 17 crease and provide an opportunity for
 18 public comment.

19 (2) ASSESSMENT AND COLLECTION OF FEES BY
 20 STATES.—

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

1 (B) REQUIREMENT TO REMIT FEES.—

2 After a State racing commission makes a notifi-
3 cation under subparagraph (A), the election
4 shall remain in effect and the State racing com-
5 mission shall be required to remit fees pursuant
6 to this subsection according to a schedule estab-
7 lished in rule developed by the Authority and
8 approved by the Commission.

9 (C) WITHDRAWAL OF ELECTION.—A State

10 racing commission may cease remitting fees
11 under this subsection not earlier than one year
12 after notifying the Authority of the intent of
13 the State racing commission to do so.

14 (D) DETERMINATION OF METHODS.—Each

15 State racing commission shall determine, sub-
16 ject to the applicable laws, regulations, and con-
17 tracts of the State, the method by which the
18 requisite amount of fees, such as foal registra-
19 tion fees, sales contributions, starter fees, and
20 track fees, and other fees on covered persons,
21 shall be allocated, assessed, and collected.

22 (3) ASSESSMENT AND COLLECTION OF FEES BY
23 THE AUTHORITY.—

24 (A) CALCULATION.—If a State racing com-

25 mission does not elect to remit fees pursuant to

1 paragraph (2) or withdraws its election under
2 such paragraph, the Authority shall, not less
3 frequently than monthly, calculate the applica-
4 ble fee per racing start multiplied by the num-
5 ber of racing starts in the State during the pre-
6 ceding month.

7 (B) ALLOCATION.—The Authority shall al-
8 locate equitably the amount calculated under
9 subparagraph (A) collected among covered per-
10 sons involved with covered horseraces pursuant
11 to such rules as the Authority may promulgate.

12 (C) ASSESSMENT AND COLLECTION.—

13 (i) IN GENERAL.—The Authority shall
14 assess a fee equal to the allocation made
15 under subparagraph (B) and shall collect
16 such fee according to such rules as the Au-
17 thority may promulgate.

18 (ii) REMITTANCE OF FEES.—Covered
19 persons described in subparagraph (B)
20 shall be required to remit such fees to the
21 Authority.

22 (D) LIMITATION.—A State racing commis-
23 sion that does not elect to remit fees pursuant
24 to paragraph (2) or that withdraws its election
25 under such paragraph shall not impose or col-

1 lect from any person a fee or tax relating to
 2 anti-doping and medication control or racetrack
 3 safety matters for covered horseraces.

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

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

9 (A) the appropriation of any amount to the
 10 Authority; or

11 (B) the Federal Government to guarantee
 12 the debts of the Authority.

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

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

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

22 (1) the bylaws of the Authority;

23 (2) a list of permitted and prohibited medica-
 24 tions, substances, and methods, including allowable

1 limits of permitted medications, substances, and
2 methods;

3 (3) laboratory standards for accreditation and
4 protocols;

5 (4) standards for racing surface quality maintenance;
6

7 (5) racetrack safety standards and protocols;

8 (6) a program for injury and fatality data analysis;
9

10 (7) a program of research and education on
11 safety, performance, and anti-doping and medication
12 control;

13 (8) a description of safety, performance, and
14 anti-doping and medication control rule violations
15 applicable to covered horses and covered persons;

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

17 (10) a process or procedures for disciplinary
18 hearings; and

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

21 (b) PUBLICATION AND COMMENT.—

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

23 (A) publish in the Federal Register each
24 proposed rule or modification submitted under
25 subsection (a); and

1 (B) provide an opportunity for public com-
2 ment.

3 (2) APPROVAL REQUIRED.—A proposed rule, or
4 a proposed modification to a rule, of the Authority
5 shall not take effect unless the proposed rule or
6 modification has been approved by the Commission.

7 (c) DECISION ON PROPOSED RULE OR MODIFICA-
8 TION TO A RULE.—

9 (1) IN GENERAL.—Not later than 60 days after
10 the date on which a proposed rule or modification is
11 published in the Federal Register, the Commission
12 shall approve or disapprove the proposed rule or
13 modification.

14 (2) CONDITIONS.—The Commission shall ap-
15 prove a proposed rule or modification if the Commis-
16 sion finds that the proposed rule or modification is
17 consistent with—

18 (A) this Act; and

19 (B) applicable rules approved by the Com-
20 mission.

21 (3) REVISION OF PROPOSED RULE OR MODI-
22 FICATION.—

23 (A) IN GENERAL.—In the case of dis-
24 approval of a proposed rule or modification
25 under this subsection, not later than 30 days

1 after the issuance of the disapproval, the Com-
2 mission shall make recommendations to the Au-
3 thority to modify the proposed rule or modifica-
4 tion.

5 (B) RESUBMISSION.—The Authority may
6 resubmit for approval by the Commission a pro-
7 posed rule or modification that incorporates the
8 modifications recommended under subpara-
9 graph (A).

10 (d) PROPOSED STANDARDS AND PROCEDURES.—

11 (1) IN GENERAL.—The Authority shall submit
12 to the Commission any proposed rule, standard, or
13 procedure developed by the Authority to carry out
14 the horseracing anti-doping and medication control
15 program or the racetrack safety program.

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

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

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

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

3 **SEC. 5. JURISDICTION OF THE COMMISSION AND THE**
4 **HORSERACING INTEGRITY AND SAFETY AU-**
5 **THORITY.**

6 (a) IN GENERAL.—Beginning on the program effec-
7 tive date, the Commission, the Authority, and the anti-
8 doping and medication control enforcement agency, each
9 within the scope of their powers and responsibilities under
10 this Act, as limited by subsection (j), shall—

11 (1) implement and enforce the horseracing anti-
12 doping and medication control program and the
13 racetrack safety program;

14 (2) exercise independent and exclusive national
15 authority over—

16 (A) the safety, welfare, and integrity of
17 covered horses, covered persons, and covered
18 horseraces; and

19 (B) all horseracing safety, performance,
20 and anti-doping and medication control matters
21 for covered horses, covered persons, and covered
22 horseraces; and

23 (3) have safety, performance, and anti-doping
24 and medication control authority over covered per-

1 sons similar to such authority of the State racing
2 commissions before the program effective date.

3 (b) PREEMPTION.—The rules of the Authority pro-
4 mulgated in accordance with this Act shall preempt any
5 provision of State law or regulation with respect to mat-
6 ters within the jurisdiction of the Authority under this
7 Act, as limited by subsection (j). Nothing contained in this
8 Act shall be construed to limit the authority of the Com-
9 mission under any other provision of law.

10 (c) DUTIES.—

11 (1) IN GENERAL.—The Authority—

12 (A) shall develop uniform procedures and
13 rules authorizing—

14 (i) access to offices, racetrack facili-
15 ties, other places of business, books,
16 records, and personal property of covered
17 persons that are used in the care, treat-
18 ment, training, and racing of covered
19 horses;

20 (ii) issuance and enforcement of sub-
21 poenas and subpoenas duces tecum; and

22 (iii) other investigatory powers of the
23 nature and scope exercised by State racing
24 commissions before the program effective
25 date; and

1 (B) with respect to an unfair or deceptive
 2 act or practice described in section 10, may rec-
 3 ommend that the Commission commence an en-
 4 forcement action.

5 (2) APPROVAL OF COMMISSION.—The proce-
 6 dures and rules developed under paragraph (1)(A)
 7 shall be subject to approval by the Commission in
 8 accordance with section 4.

9 (d) REGISTRATION OF COVERED PERSONS WITH AU-
 10 THORITY.—

11 (1) IN GENERAL.—As a condition of partici-
 12 pating in covered races and in the care, ownership,
 13 treatment, and training of covered horses, a covered
 14 person shall register with the Authority in accord-
 15 ance with rules promulgated by the Authority and
 16 approved by the Commission in accordance with sec-
 17 tion 4.

18 (2) AGREEMENT WITH RESPECT TO AUTHORITY
 19 RULES, STANDARDS, AND PROCEDURES.—Registra-
 20 tion under this subsection shall include an agree-
 21 ment by the covered person to be subject to and
 22 comply with the rules, standards, and procedures de-
 23 veloped and approved under subsection (c).

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

1 (A) cooperate with the Commission, the
 2 Authority, the anti-doping and medication con-
 3 trol enforcement agency, and any respective
 4 designee, during any civil investigation; and

5 (B) respond truthfully and completely to
 6 the best of the knowledge of the covered person
 7 if questioned by the Commission, the Authority,
 8 the anti-doping and medication control enforce-
 9 ment agency, or any respective designee.

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

13 (e) ENFORCEMENT OF PROGRAMS.—

14 (1) ANTI-DOPING AND MEDICATION CONTROL
 15 ENFORCEMENT AGENCY.—

16 (A) AGREEMENT WITH USADA.—The Au-
 17 thority shall seek to enter into an agreement
 18 with the United States Anti-Doping Agency
 19 under which the Agency acts as the anti-doping
 20 and medication control enforcement agency
 21 under this Act for services consistent with the
 22 horseracing anti-doping and medication control
 23 program.

24 (B) AGREEMENT WITH OTHER ENTITY.—If
 25 the Authority and the United States Anti-

1 Doping Agency are unable to enter into the
2 agreement described in subparagraph (A), the
3 Authority shall enter into an agreement with an
4 entity that is nationally recognized as being a
5 medication regulation agency equal in qualifica-
6 tion to the United States Anti-Doping Agency
7 to act as the anti-doping and medication control
8 enforcement agency under this Act for services
9 consistent with the horseracing anti-doping and
10 medication control program.

11 (C) NEGOTIATIONS.—Any negotiations
12 under this paragraph shall be conducted in
13 good faith and designed to achieve efficient, ef-
14 fective best practices for anti-doping and medi-
15 cation control and enforcement on commercially
16 reasonable terms.

17 (D) ELEMENTS OF AGREEMENT.—Any
18 agreement under this paragraph shall include a
19 description of the scope of work, performance
20 metrics, reporting obligations, budgets of the
21 United States Anti-Doping Agency while acting
22 as the anti-doping and medication control en-
23 forcement agency under this Act, a provision
24 for the revision of the agreement to increase in
25 the scope of work, as provided in subsection (k),

1 and any other matter the Authority considers
2 appropriate.

3 (E) DUTIES AND POWERS OF ENFORCE-
4 MENT AGENCY.—The anti-doping and medica-
5 tion control enforcement agency under an
6 agreement under this paragraph shall—

7 (i) serve as the independent anti-
8 doping and medication control enforcement
9 organization for covered horses, covered
10 persons, and covered horseraces, imple-
11 menting the anti-doping and medication
12 control program on behalf of the Author-
13 ity;

14 (ii) ensure that covered horses and
15 covered persons are deterred from using or
16 administering medications, substances, and
17 methods in violation of the rules estab-
18 lished in accordance with this Act;

19 (iii) implement anti-doping education,
20 research, testing, compliance and adjudica-
21 tion programs designed to prevent covered
22 persons and covered horses from using or
23 administering medications, substances, and
24 methods in violation of the rules estab-
25 lished in accordance with this Act;

1 (iv) exercise the powers specified in
2 section 6(c)(4) in accordance with that sec-
3 tion; and

4 (v) implement and undertake any
5 other responsibilities specified in the agree-
6 ment.

7 (F) TERM AND EXTENSION.—

8 (i) TERM OF INITIAL AGREEMENT.—
9 The initial agreement entered into by the
10 Authority under this paragraph shall be in
11 effect for the 5-year period beginning on
12 the program effective date.

13 (ii) EXTENSION.—At the end of the 5-
14 year period described in clause (i), the Au-
15 thority may—

16 (I) extend the term of the initial
17 agreement under this paragraph for
18 such additional term as is provided by
19 the rules of the Authority and con-
20 sistent with this Act; or

21 (II) enter into an agreement
22 meeting the requirements of this para-
23 graph with an entity described by sub-
24 paragraph (B) for such term as is

1 provided by such rules and consistent
 2 with this Act.

3 (2) AGREEMENTS FOR ENFORCEMENT BY
 4 STATE RACING COMMISSIONS.—

5 (A) STATE RACING COMMISSIONS.—

6 (i) RACETRACK SAFETY PROGRAM.—

7 The Authority may enter into agreements
 8 with State racing commissions for services
 9 consistent with the enforcement of the
 10 racetrack safety program.

11 (ii) ANTI-DOPING AND MEDICATION
 12 CONTROL PROGRAM.—The anti-doping and
 13 medication control enforcement agency
 14 may enter into agreements with State rac-
 15 ing commissions for services consistent
 16 with the enforcement of the anti-doping
 17 and medication control program.

18 (B) ELEMENTS OF AGREEMENTS.—Any
 19 agreement under this paragraph shall include a
 20 description of the scope of work, performance
 21 metrics, reporting obligations, budgets, and any
 22 other matter the Authority considers appro-
 23 priate.

24 (3) ENFORCEMENT OF STANDARDS.—The Au-
 25 thority may coordinate with State racing commis-

1 sions and other State regulatory agencies to monitor
 2 and enforce racetrack compliance with the standards
 3 developed under paragraphs (1) and (2) of section
 4 7(c).

5 (f) PROCEDURES WITH RESPECT TO RULES OF AU-
 6 THORITY.—

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

9 (A) IN GENERAL.—Recommendations for
 10 rules regarding anti-doping and medication con-
 11 trol shall be developed in accordance with sec-
 12 tion 6.

13 (B) CONSULTATION.—The anti-doping and
 14 medication control enforcement agency shall
 15 consult with the anti-doping and medication
 16 control standing committee and the Board of
 17 the Authority on all anti-doping and medication
 18 control rules of the Authority.

19 (2) RACETRACK SAFETY.—Recommendations
 20 for rules regarding racetrack safety shall be devel-
 21 oped by the racetrack safety standing committee of
 22 the Authority.

23 (g) SUBPOENA AND INVESTIGATORY AUTHORITY.—
 24 The Authority shall have subpoena and investigatory au-

1 thority with respect to civil violations committed under its
2 jurisdiction.

3 (h) CIVIL PENALTIES.—The Authority shall develop
4 a list of civil penalties with respect to the enforcement of
5 rules for covered persons and covered horseraces under its
6 jurisdiction.

7 (i) CIVIL ACTIONS.—

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

22 (2) INJUNCTIONS AND RESTRAINING ORDERS.—
23 With respect to a civil action commenced under
24 paragraph (1), upon a proper showing, a permanent

1 or temporary injunction or restraining order shall be
2 granted without bond.

3 (j) LIMITATIONS ON AUTHORITY.—

4 (1) PROSPECTIVE APPLICATION.—The jurisdic-
5 tion and authority of the Authority and the Commis-
6 sion with respect to the horseracing anti-doping and
7 medication control program and the racetrack safety
8 program shall be prospective only.

9 (2) PREVIOUS MATTERS.—

10 (A) IN GENERAL.—The Authority and the
11 Commission may not investigate, prosecute, ad-
12 judicate, or penalize conduct in violation of the
13 horseracing anti-doping and medication control
14 program and the racetrack safety program that
15 occurs before the program effective date.

16 (B) STATE RACING COMMISSION.—With re-
17 spect to conduct described in subparagraph (A),
18 the applicable State racing commission shall re-
19 tain authority until the final resolution of the
20 matter.

21 (3) OTHER LAWS UNAFFECTED.—This Act
22 shall not be construed to modify, impair, or restrict
23 the operation of the general laws or regulations, as
24 may be amended from time to time, of the United
25 States, the States and their political subdivisions re-

1 lating to criminal conduct, cruelty to animals, mat-
 2 ters unrelated to anti-doping, medication control and
 3 racetrack and racing safety of covered horses and
 4 covered races, and the use of medication in human
 5 participants in covered races.

6 (k) ELECTION FOR OTHER BREED COVERAGE
 7 UNDER ACT.—

8 (1) IN GENERAL.—A State racing commission
 9 or a breed governing organization for a breed of
 10 horses other than Thoroughbred horses may elect to
 11 have such breed be covered by this Act by the filing
 12 of a designated election form and subsequent ap-
 13 proval by the Authority. A State racing commission
 14 may elect to have a breed covered by this Act for the
 15 applicable State only.

16 (2) ELECTION CONDITIONAL ON FUNDING
 17 MECHANISM.—A commission or organization may
 18 not make an election under paragraph (1) unless the
 19 commission or organization has in place a mecha-
 20 nism to provide sufficient funds to cover the costs of
 21 the administration of this Act with respect to the
 22 horses that will be covered by this Act as a result
 23 of the election.

24 (3) APPORTIONMENT.—The Authority shall ap-
 25 portion costs described in paragraph (2) in connec-

1 tion with an election under paragraph (1) fairly
 2 among all impacted segments of the horseracing in-
 3 dustry, subject to approval by the Commission in ac-
 4 cordance with section 4. Such apportionment may
 5 not provide for the allocation of costs or funds
 6 among breeds of horses.

7 **SEC. 6. HORSERACING ANTI-DOPING AND MEDICATION**
 8 **CONTROL PROGRAM.**

9 (a) PROGRAM REQUIRED.—

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

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

1 (b) CONSIDERATIONS IN DEVELOPMENT OF PRO-
2 GRAM.—In developing the horseracing anti-doping and
3 medication control program, the Authority shall take into
4 consideration the following:

5 (1) Covered horses should compete only when
6 they are free from the influence of medications,
7 other foreign substances, and methods that affect
8 their performance.

9 (2) Covered horses that are injured or unsound
10 should not train or participate in covered races, and
11 the use of medications, other foreign substances, and
12 treatment methods that mask or deaden pain in
13 order to allow injured or unsound horses to train or
14 race should be prohibited.

15 (3) Rules, standards, procedures, and protocols
16 regulating medication and treatment methods for
17 covered horses and covered races should be uniform
18 and uniformly administered nationally.

19 (4) To the extent consistent with this Act, con-
20 sideration should be given to international anti-
21 doping and medication control standards of the
22 International Federation of Horseracing Authorities
23 and the Principles of Veterinary Medical Ethics of
24 the American Veterinary Medical Association.

1 (5) The administration of medications and
2 treatment methods to covered horses should be
3 based upon an examination and diagnosis that iden-
4 tifies an issue requiring treatment for which the
5 medication or method represents an appropriate
6 component of treatment.

7 (6) The amount of therapeutic medication that
8 a covered horse receives should be the minimum nec-
9 essary to address the diagnosed health concerns
10 identified during the examination and diagnostic
11 process.

12 (7) The welfare of covered horses, the integrity
13 of the sport, and the confidence of the betting public
14 require full disclosure to regulatory authorities re-
15 garding the administration of medications and treat-
16 ments to covered horses.

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

20 (1) STANDARDS FOR ANTI-DOPING AND MEDI-
21 CATION CONTROL.—Not later than 120 days before
22 the program effective date, the Authority shall issue,
23 by rule—

24 (A) uniform standards for—

- 1 (i) the administration of medication to
2 covered horses by covered persons; and
3 (ii) laboratory testing accreditation
4 and protocols; and
5 (B) a list of permitted and prohibited
6 medications, substances, and methods, including
7 allowable limits of permitted medications, sub-
8 stances, and methods.

9 (2) REVIEW PROCESS FOR ADMINISTRATION OF
10 MEDICATION.—The development of a review process
11 for the administration of any medication to a cov-
12 ered horse during the 48-hour period preceding the
13 next racing start of the covered horse.

14 (3) AGREEMENT REQUIREMENTS.—The devel-
15 opment of requirements with respect to agreements
16 under section 5(e).

17 (4) ANTI-DOPING AND MEDICATION CONTROL
18 ENFORCEMENT AGENCY.—

19 (A) CONTROL RULES, PROTOCOLS, ETC.—
20 Except as provided in paragraph (5), the anti-
21 doping and medication control program enforce-
22 ment agency under section 5(e) shall, in con-
23 sultation with the anti-doping and medication
24 control standing committee of the Authority
25 and consistent with international best practices,

1 develop and recommend anti-doping and medi-
2 cation control rules, protocols, policies, and
3 guidelines for approval by the Authority.

4 (B) RESULTS MANAGEMENT.—The anti-
5 doping and medication control enforcement
6 agency shall conduct and oversee anti-doping
7 and medication control results management, in-
8 cluding independent investigations, charging
9 and adjudication of potential medication control
10 rule violations, and the enforcement of any civil
11 sanctions for such violations. Any final decision
12 or civil sanction of the anti-doping and medica-
13 tion control enforcement agency under this sub-
14 paragraph shall be the final decision or civil
15 sanction of the Authority, subject to review in
16 accordance with section 9.

17 (C) TESTING.—The anti-doping enforce-
18 ment agency shall perform and manage test dis-
19 tribution planning (including intelligence-based
20 testing), the sample collection process, and in-
21 competition and out-of-competition testing (in-
22 cluding no-advance-notice testing).

23 (D) TESTING LABORATORIES.—The anti-
24 doping and medication control enforcement
25 agency shall accredit testing laboratories based

1 upon the standards established under this Act,
 2 and shall monitor, test, and audit accredited
 3 laboratories to ensure continuing compliance
 4 with accreditation standards.

5 (5) ANTI-DOPING AND MEDICATION CONTROL
 6 STANDING COMMITTEE.—The anti-doping and medi-
 7 cation control standing committee shall, in consulta-
 8 tion with the anti-doping and medication control en-
 9 forcement agency, develop lists of permitted and pro-
 10 hibited medications, methods, and substances for
 11 recommendation to, and approval by, the Authority.
 12 Any such list may prohibit the administration of any
 13 substance or method to a horse at any time after
 14 such horse becomes a covered horse if the Authority
 15 determines such substance or method has a long-
 16 term degrading effect on the soundness of a horse.

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

23 (e) ADVISORY COMMITTEE STUDY AND REPORT.—

24 (1) IN GENERAL.—Not later than the program
 25 effective date, the Authority shall convene an advi-

1 sory committee comprised of horseracing anti-doping
2 and medication control industry experts, including a
3 member designated by the anti-doping and medica-
4 tion control enforcement agency, to conduct a study
5 on the use of furosemide on horses during the 48-
6 hour period before the start of a race, including the
7 effect of furosemide on equine health and the integ-
8 rity of competition and any other matter the Author-
9 ity considers appropriate.

10 (2) REPORT.—Not later than three years after
11 the program effective date, the Authority shall direct
12 the advisory committee convened under paragraph
13 (1) to submit to the Authority a written report on
14 the study conducted under that paragraph that in-
15 cludes recommended changes, if any, to the prohibi-
16 tion in subsection (d).

17 (3) MODIFICATION OF PROHIBITION.—

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

(B) CONDITION.—In order for a unanimous vote described in subparagraph (A) to effect a modification of the prohibition in subsection (d), the vote must include unanimous adoption of each of the following findings:

(i) That the modification is warranted.

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

(iii) That furosemide has no performance enhancing effect on individual horses.

(iv) That public confidence in the integrity and safety of racing would not be adversely affected by the modification.

(f) EXEMPTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), only during the three-year period beginning on the program effective date, a State racing commission may submit to the Authority, at such time and in such manner as the Authority may require, a request for an exemption from the prohibition in subsection (d) with respect to the use of furosemide on covered horses during such period.

(2) EXCEPTIONS.—An exemption under paragraph (1) may not be requested for—

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

2 (B) covered horses competing in stakes
3 races.

4 (3) CONTENTS OF REQUEST.—A request under
5 paragraph (1) shall specify the applicable State rac-
6 ing commission’s requested limitations on the use of
7 furosemide that would apply to the State under the
8 horseracing anti-doping and medication control pro-
9 gram during such period. Such limitations shall be
10 no less restrictive on the use and administration of
11 furosemide than the restrictions set forth in State’s
12 laws and regulations in effect as of September 1,
13 2020.

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

20 (g) BASELINE ANTI-DOPING AND MEDICATION CON-
21 TROL RULES.—

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

1 (A) constitute the initial rules of the horse-
 2 racing anti-doping and medication control pro-
 3 gram; and

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

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

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

12 (i) The lists of permitted and prohib-
 13 ited substances (including drugs, medica-
 14 tions, and naturally occurring substances
 15 and synthetically occurring substances) in
 16 effect for the International Federation of
 17 Horseracing Authorities, including the
 18 International Federation of Horseracing
 19 Authorities International Screening Limits
 20 for urine, dated May 2019, and the Inter-
 21 national Federation of Horseracing Au-
 22 thorities International Screening Limits for
 23 plasma, dated May 2019.

1 (ii) The World Anti-Doping Agency
 2 International Standard for Laboratories
 3 (version 10.0), dated November 12, 2019.

4 (iii) The Association of Racing Com-
 5 missioners International out-of-competition
 6 testing standards, Model Rules of Racing
 7 (version 9.2).

8 (iv) The Association of Racing Com-
 9 missioners International penalty and mul-
 10 tiple medication violation rules, Model
 11 Rules of Racing (version 6.2).

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

15 (3) MODIFICATIONS TO BASELINE RULES.—

16 (A) DEVELOPMENT BY ANTI-DOPING AND
 17 MEDICATION CONTROL STANDING COM-
 18 MITTEE.—The anti-doping and medication con-
 19 trol standing committee, in consultation with
 20 the anti-doping and medication control enforce-
 21 ment agency, may develop and submit to the
 22 Authority for approval by the Authority pro-
 23 posed modifications to the baseline anti-doping
 24 and medication control rules.

1 (B) AUTHORITY APPROVAL.—If the Au-
 2 thority approves a proposed modification under
 3 this paragraph, the proposed modification shall
 4 be submitted to and considered by the Commis-
 5 sion in accordance with section 4.

6 (C) ANTI-DOPING AND MEDICATION CON-
 7 TROL ENFORCEMENT AGENCY VETO AUTHOR-
 8 ITY.—The Authority shall not approve any pro-
 9 posed modification that renders an anti-doping
 10 and medication control rule less stringent than
 11 the baseline anti-doping and medication control
 12 rules described in paragraph (2) (including by
 13 increasing permitted medication thresholds,
 14 adding permitted medications, removing prohib-
 15 ited medications, or weakening enforcement
 16 mechanisms) without the approval of the anti-
 17 doping and medication control enforcement
 18 agency.

19 **SEC. 7. RACETRACK SAFETY PROGRAM.**

20 (a) ESTABLISHMENT AND CONSIDERATIONS.—

21 (1) IN GENERAL.—Not later than the program
 22 effective date, and after notice and an opportunity
 23 for public comment in accordance with section 4, the
 24 Authority shall establish a racetrack safety program
 25 applicable to all covered horses, covered persons, and

1 covered horseraces in accordance with the registra-
 2 tion of covered persons under section 5(d).

3 (2) CONSIDERATIONS IN DEVELOPMENT OF
 4 SAFETY PROGRAM.—In the development of the
 5 horseracing safety program for covered horses, cov-
 6 ered persons, and covered horseraces, the Authority
 7 and the Commission shall take into consideration ex-
 8 isting safety standards including the National Thor-
 9 oughbred Racing Association Safety and Integrity
 10 Alliance Code of Standards, the International Fed-
 11 eration of Horseracing Authority's International
 12 Agreement on Breeding, Racing, and Wagering, and
 13 the British Horseracing Authority's Equine Health
 14 and Welfare program.

15 (b) ELEMENTS OF HORSERACING SAFETY PRO-
 16 GRAM.—The horseracing safety program shall include the
 17 following:

18 (1) A set of training and racing safety stand-
 19 ards and protocols taking into account regional dif-
 20 ferences and the character of differing racing facili-
 21 ties.

22 (2) A uniform set of training and racing safety
 23 standards and protocols consistent with the humane
 24 treatment of covered horses, which may include lists

1 of permitted and prohibited practices or methods
2 (such as crop use).

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

5 (A) takes into account regional differences
6 and the character of differing racing facilities;
7 and

8 (B) may include requirements for track
9 surface design and consistency and established
10 standard operating procedures related to track
11 surface, monitoring, and maintenance (such as
12 standardized seasonal assessment, daily track-
13 ing, and measurement).

14 (4) A uniform set of track safety standards and
15 protocols, that may include rules governing oversight
16 and movement of covered horses and human and
17 equine injury reporting and prevention.

18 (5) Programs for injury and fatality data anal-
19 ysis, that may include pre- and post-training and
20 race inspections, use of a veterinarian's list, and
21 concussion protocols.

22 (6) The undertaking of investigations at race-
23 track and non-racetrack facilities related to safety
24 violations.

1 (7) Procedures for investigating, charging, and
 2 adjudicating violations and for the enforcement of
 3 civil sanctions for violations.

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

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

7 (10) Management of violation results.

8 (11) Programs relating to safety and perform-
 9 ance research and education.

10 (12) An evaluation and accreditation program
 11 that ensures that racetracks in the United States
 12 meet the standards described in the elements of the
 13 Horseracing Safety Program.

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

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

20 (2) STANDARDS FOR SAFETY AND PERFORM-
 21 ANCE ACCREDITATION.—

22 (A) IN GENERAL.—Not later than 120
 23 days before the program effective date, the Au-
 24 thority, in consultation with the racetrack safe-

ty standing committee, shall issue, by rule in
accordance with section 4—

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

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

(B) MODIFICATIONS.—

(i) IN GENERAL.—The Authority may
modify rules establishing the standards
issued under subparagraph (A), as the Au-
thority considers appropriate.

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

(C) EXTENSION OF PROVISIONAL OR IN-
TERIM ACCREDITATION.—The Authority may,
by rule in accordance with section 4, extend
provisional or interim accreditation to a race-
track accredited by the National Thoroughbred
Racing Association Safety and Integrity Alli-

1 ance on a date before the program effective
2 date.

3 (3) NATIONWIDE SAFETY AND PERFORMANCE
4 DATABASE.—

5 (A) IN GENERAL.—Not later than one year
6 after the program effective date, and after no-
7 tice and an opportunity for public comment in
8 accordance with section 4, the Authority, in
9 consultation with the Commission, shall develop
10 and maintain a nationwide database of race-
11 horse safety, performance, health, and injury
12 information for the purpose of conducting an
13 epidemiological study.

14 (B) COLLECTION OF INFORMATION.—In
15 accordance with the registration of covered per-
16 sons under section 5(d), the Authority may re-
17 quire covered persons to collect and submit to
18 the database described in subparagraph (A)
19 such information as the Authority may require
20 to further the goal of increased racehorse wel-
21 fare.

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

23 (a) DESCRIPTION OF RULE VIOLATIONS.—

24 (1) IN GENERAL.—The Authority shall issue, by
25 rule in accordance with section 4, a description of

1 safety, performance, and anti-doping and medication
2 control rule violations applicable to covered horses
3 and covered persons.

4 (2) ELEMENTS.—The description of rule viola-
5 tions established under paragraph (1) may include
6 the following:

7 (A) With respect to a covered horse, strict
8 liability for covered trainers for—

9 (i) the presence of a prohibited sub-
10 stance or method in a sample or the use of
11 a prohibited substance or method;

12 (ii) the presence of a permitted sub-
13 stance in a sample in excess of the amount
14 allowed by the horseracing anti-doping and
15 medication control program; and

16 (iii) the use of a permitted method in
17 violation of the applicable limitations es-
18 tablished under the horseracing anti-
19 doping and medication control program.

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

22 (C) Possession of any prohibited substance
23 or method.

24 (D) Attempted possession of any prohib-
25 ited substance or method.

1 (E) Administration or attempted adminis-
2 tration of any prohibited substance or method
3 on a covered horse.

4 (F) Refusal or failure, without compelling
5 justification, to submit a covered horse for sam-
6 ple collection.

7 (G) Failure to cooperate with the Author-
8 ity or an agent of the Authority during any in-
9 vestigation.

10 (H) Failure to respond truthfully, to the
11 best of a covered person's knowledge, to a ques-
12 tion of the Authority or an agent of the Author-
13 ity with respect to any matter under the juris-
14 diction of the Authority.

15 (I) Tampering or attempted tampering
16 with the application of the safety, performance,
17 or anti-doping and medication control rules or
18 process adopted by the Authority, including—

19 (i) the intentional interference, or an
20 attempt to interfere, with an official or
21 agent of the Authority;

22 (ii) the procurement or the provision
23 of fraudulent information to the Authority
24 or agent; and

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

3 (J) Trafficking or attempted trafficking in
4 any prohibited substance or method.

5 (K) Assisting, encouraging, aiding, abet-
6 ting, conspiring, covering up, or any other type
7 of intentional complicity involving a safety, per-
8 formance, or anti-doping and medication control
9 rule violation or the violation of a period of sus-
10 pension or eligibility.

11 (L) Threatening or seeking to intimidate a
12 person with the intent of discouraging the per-
13 son from the good faith reporting to the Au-
14 thority, an agent of the Authority or the Com-
15 mission, or the anti-doping and medication con-
16 trol enforcement agency under section 5(e), of
17 information that relates to—

18 (i) an alleged safety, performance, or
19 anti-doping and medication control rule
20 violation; or

21 (ii) alleged noncompliance with a safe-
22 ty, performance, or anti-doping and medi-
23 cation control rule.

24 (b) TESTING LABORATORIES.—

1 (1) ACCREDITATION AND STANDARDS.—Not
2 later than 120 days before the program effective
3 date, the Authority shall, in consultation with the
4 anti-doping and medication control enforcement
5 agency, establish, by rule in accordance with section
6 4—

7 (A) standards of accreditation for labora-
8 tories involved in testing samples from covered
9 horses;

10 (B) the process for achieving and main-
11 taining accreditation; and

12 (C) the standards and protocols for testing
13 such samples.

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

23 (3) EXTENSION OF PROVISIONAL OR INTERIM
24 ACCREDITATION.—The Authority may, by rule in ac-
25 cordance with section 4, extend provisional or in-

1 terim accreditation to a laboratory accredited by the
2 Racing Medication and Testing Consortium, Inc., on
3 a date before the program effective date.

4 (4) SELECTION OF LABORATORIES.—

5 (A) IN GENERAL.—Except as provided in
6 paragraph (2), a State racing commission may
7 select a laboratory accredited in accordance
8 with the standards established under paragraph
9 (1) to test samples taken in the applicable
10 State.

11 (B) SELECTION BY THE AUTHORITY.—If a
12 State racing commission does not select an ac-
13 credited laboratory under subparagraph (A),
14 the Authority shall select such a laboratory to
15 test samples taken in the State concerned.

16 (c) RESULTS MANAGEMENT AND DISCIPLINARY
17 PROCESS.—

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

21 (A) rules for safety, performance, and anti-
22 doping and medication control results manage-
23 ment; and

1 (B) the disciplinary process for safety, per-
2 formance, and anti-doping and medication con-
3 trol rule violations.

4 (2) ELEMENTS.—The rules and process estab-
5 lished under paragraph (1) shall include the fol-
6 lowing:

7 (A) Provisions for notification of safety,
8 performance, and anti-doping and medication
9 control rule violations.

10 (B) Hearing procedures.

11 (C) Standards for burden of proof.

12 (D) Presumptions.

13 (E) Evidentiary rules.

14 (F) Appeals.

15 (G) Guidelines for confidentiality and pub-
16 lic reporting of decisions.

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

24 (d) CIVIL SANCTIONS.—

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

6 (2) REQUIREMENTS.—The rules established
7 under paragraph (1) shall—

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

10 (B) be designed to ensure fair and trans-
11 parent horseraces; and

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

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

16 (A) lifetime bans from horseracing,
17 disgorgement of purses, monetary fines and
18 penalties, and changes to the order of finish in
19 covered races; and

20 (B) with respect to anti-doping and medi-
21 cation control rule violators, an opportunity to
22 reduce the applicable civil sanctions that is
23 comparable to the opportunity provided by the
24 Protocol for Olympic Movement Testing of the
25 United States Anti-Doping Agency.

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

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

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

13 (b) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

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

21 (2) NATURE OF REVIEW.—

22 (A) IN GENERAL.—In matters reviewed
 23 under this subsection, the administrative law
 24 judge shall determine whether—

1 (i) a person has engaged in such acts
 2 or practices, or has omitted such acts or
 3 practices, as the Authority has found the
 4 person to have engaged in or omitted;

5 (ii) such acts, practices, or omissions
 6 are in violation of this Act or the anti-
 7 doping and medication control or racetrack
 8 safety rules approved by the Commission;
 9 or

10 (iii) the final civil sanction of the Au-
 11 thority was arbitrary, capricious, an abuse
 12 of discretion, or otherwise not in accord-
 13 ance with law.

14 (B) CONDUCT OF HEARING.—An adminis-
 15 trative law judge shall conduct a hearing under
 16 this subsection in such a manner as the Com-
 17 mission may specify by rule, which shall con-
 18 form to section 556 of title 5, United States
 19 Code.

20 (3) DECISION BY ADMINISTRATIVE LAW
 21 JUDGE.—

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

1 (i) shall render a decision not later
2 than 60 days after the conclusion of the
3 hearing;

4 (ii) may affirm, reverse, modify, set
5 aside, or remand for further proceedings,
6 in whole or in part, the final civil sanction
7 of the Authority; and

8 (iii) may make any finding or conclu-
9 sion that, in the judgment of the adminis-
10 trative law judge, is proper and based on
11 the record.

12 (B) FINAL DECISION.—A decision under
13 this paragraph shall constitute the decision of
14 the Commission without further proceedings
15 unless a notice or an application for review is
16 timely filed under subsection (c).

17 (c) REVIEW BY COMMISSION.—

18 (1) NOTICE OF REVIEW BY COMMISSION.—The
19 Commission may, on its own motion, review any de-
20 cision of an administrative law judge issued under
21 subsection (b)(3) by providing written notice to the
22 Authority and any interested party not later than 30
23 days after the date on which the administrative law
24 judge issues the decision.

25 (2) APPLICATION FOR REVIEW.—

1 (A) IN GENERAL.—The Authority or a per-
2 son aggrieved by a decision issued under sub-
3 section (b)(3) may petition the Commission for
4 review of such decision by filing an application
5 for review not later than 30 days after the date
6 on which the administrative law judge issues
7 the decision.

8 (B) EFFECT OF DENIAL OF APPLICATION
9 FOR REVIEW.—If an application for review
10 under subparagraph (A) is denied, the decision
11 of the administrative law judge shall constitute
12 the decision of the Commission without further
13 proceedings.

14 (C) DISCRETION OF COMMISSION.—

15 (i) IN GENERAL.—A decision with re-
16 spect to whether to grant an application
17 for review under subparagraph (A) is sub-
18 ject to the discretion of the Commission.

19 (ii) MATTERS TO BE CONSIDERED.—
20 In determining whether to grant such an
21 application for review, the Commission
22 shall consider whether the application
23 makes a reasonable showing that—

1 (I) a prejudicial error was com-
 2 mitted in the conduct of the pro-
 3 ceeding; or

4 (II) the decision involved—

5 (aa) an erroneous applica-
 6 tion of the anti-doping and medi-
 7 cation control or racetrack safety
 8 rules approved by the Commis-
 9 sion; or

10 (bb) an exercise of discretion
 11 or a decision of law or policy that
 12 warrants review by the Commis-
 13 sion.

14 (3) NATURE OF REVIEW.—

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

17 (i) affirm, reverse, modify, set aside,
 18 or remand for further proceedings, in
 19 whole or in part, the decision of the admin-
 20 istrative law judge; and

21 (ii) make any finding or conclusion
 22 that, in the judgement of the Commission,
 23 is proper and based on the record.

24 (B) DE NOVO REVIEW.—The Commission
 25 shall review de novo the factual findings and

1 conclusions of law made by the administrative
2 law judge.

3 (C) CONSIDERATION OF ADDITIONAL EVI-
4 DENCE.—

5 (i) MOTION BY COMMISSION.—The
6 Commission may, on its own motion, allow
7 the consideration of additional evidence.

8 (ii) MOTION BY A PARTY.—

9 (I) IN GENERAL.—A party may
10 file a motion to consider additional
11 evidence at any time before the
12 issuance of a decision by the Commis-
13 sion, which shall show, with particu-
14 larity, that—

15 (aa) such additional evidence
16 is material; and

17 (bb) there were reasonable
18 grounds for failure to submit the
19 evidence previously.

20 (II) PROCEDURE.—The Commis-
21 sion may—

22 (aa) accept or hear addi-
23 tional evidence; or

24 (bb) remand the proceeding
25 to the administrative law judge

1 for the consideration of addi-
2 tional evidence.

3 (d) STAY OF PROCEEDINGS.—Review by an adminis-
4 trative law judge or the Commission under this section
5 shall not operate as a stay of a final civil sanction of the
6 Authority unless the administrative law judge or Commis-
7 sion orders such a stay.

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

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

14 (1) knows or has reason to know the horse has
15 been administered—

16 (A) a bisphosphonate prior to the horse's
17 fourth birthday; or

18 (B) any other substance or method the Au-
19 thority determines has a long-term degrading
20 effect on the soundness of the covered horse;
21 and

22 (2) fails to disclose to the buyer the administra-
23 tion of the bisphosphonate or other substance or
24 method described in paragraph (1)(B).

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

2 (a) STATE DELEGATION.—

3 (1) IN GENERAL.—The Authority may enter
4 into an agreement with a State racing commission to
5 implement, within the jurisdiction of the State rac-
6 ing commission, a component of the racetrack safety
7 program or, with the concurrence of the anti-doping
8 and medication control enforcement agency under
9 section 5(e), a component of the horseracing anti-
10 doping and medication control program, if the Au-
11 thority determines that the State racing commission
12 has the ability to implement such component in ac-
13 cordance with the rules, standards, and require-
14 ments established by the Authority.

15 (2) IMPLEMENTATION BY STATE RACING COM-
16 MISSION.—A State racing commission or other ap-
17 propriate regulatory body of a State may not imple-
18 ment such a component in a manner less restrictive
19 than the rule, standard, or requirement established
20 by the Authority.

21 (b) COOPERATION.—To avoid duplication of func-
22 tions, facilities, and personnel, and to attain closer coordi-
23 nation and greater effectiveness and economy in adminis-
24 tration of Federal and State law, where conduct by any
25 person subject to the horseracing medication control pro-
26 gram or the racetrack safety program may involve both

1 a medication control or racetrack safety rule violation and
2 violation of Federal or State law, the Authority and Fed-
3 eral or State law enforcement authorities shall cooperate
4 and share information.

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