

S. _____

To protect the health and welfare of the racing horse and improve the integrity and safety of horseracing by authorizing States to enter into an interstate compact to develop and enforce a medication control program and a track safety program uniform as to each equine breed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

A BILL

To protect the health and welfare of the racing horse and improve the integrity and safety of horseracing by authorizing States to enter into an interstate compact to develop and enforce a medication and control program and a track safety program uniform as to each equine breed, and for other purposes.

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 “Racehorse Health and Safety Act of 2021”.

SEC. 2. AUTHORIZATION TO ENTER INTO INTERSTATE COMPACT.

(a) The consent of Congress is given for States to enter into the interstate compact described and defined in this Racehorse Health and Safety Act of 2021.

(b) States may evidence their consent to enter into this interstate compact by enacting legislation with language substantially similar to the following:

“The State of _____ hereby consents to and enters into the interstate compact described and defined in the Racehorse Health and Safety Act of 2021.”

SEC. 3. DEFINITIONS.

In this Act:

(1) RACEHORSE HEALTH AND SAFETY ORGANIZATION (RHSO).

– The term “RHSO” means the entity that will develop and enforce the medication control program and racetrack safety program on behalf of the participating States.

(2) COVERED HORSE. – The term “covered horse” means any Thoroughbred, Standardbred, or Quarter Horse during the period –

(A) beginning on the date of registration of the covered horse with the appropriate breed registry pursuant to section 5(d)(1), and

(B) ending on the day that the ownership interest of the covered horse formally notifies the RHSO that the horse is permanently ineligible to be entered in a covered horserace pursuant to section 5(d)(2).

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

(4) COVERED PERSONS. – The term “covered persons” means all trainers, owners and breeders, jockeys or drivers, racetracks, veterinarians, persons (legal or natural) licensed by a State racing commission, 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.

(5) RACING CONSTITUENCIES. – The term “racing constituencies” means, collectively, owners and breeders, trainers, racetracks, veterinarians, and jockeys or drivers who are engaged in the care, training, or racing of covered horses.

(6) EQUINE INDUSTRY REPRESENTATIVE. – The term “equine industry representative” means an organization representing the interests of, and whose membership consists of, owners and breeders, trainers, racetracks, veterinarians, State racing commissions, and jockeys.

(7) HORSERACING MEDICATION CONTROL PROGRAM. – The term “horseracing medication control program” means the program established under section 6.

(8) IMMEDIATE FAMILY MEMBER. – The term “immediate family member” shall include a spouse, domestic partner, mother, father, aunt, uncle, sibling, child, or member of the same household.

(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 OR DRIVER. – The term “jockey or driver” means a rider or driver of a covered horse in covered horseraces.

(11) LABORATORY. – The term “laboratory” or “laboratories” means an ISO/IEC 17025- and RHSO-accredited laboratory that performs drug testing for State racing commissions and covered races.

(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) PARTICIPATING STATES. – The term “participating States” means those States that have entered into the interstate compact authorized and defined by this Act.

(14) PROGRAM EFFECTIVE DATE. – The term “program effective date” means the earlier of –

(A) January 1 of the second year after the date of the enactment of this Act if two or more States have become participating States by then; or

(B) the date that is 540 days after such date of enactment if two or more States have become participating States by then; or

(C) 360 days after two or more States have become participating States.

(15) RACETRACK. – The term “racetrack” means an organization or person licensed by a State racing commission to conduct covered horse races.

(16) RACETRACK SAFETY PROGRAM. – The term “racetrack safety program” means the program established under section 7.

(17) SCIENTIFIC ADVISORY COMMITTEE. – The term “Scientific Advisory Committee” or “SAC” means the breed-specific committee established

in section 4(d) for the purpose of reviewing medication rules under which each specific breed will compete in horseracing.

(18) STAKES RACE. – The term “stakes race” means any race so designated by the racetrack at which such race is held including, without limitation, the races comprising the Breeders’ Cup World Championships, the Breeders Crown, Hambletonian Stakes, International Trot, and the races designated as graded stakes by the American Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, or by any stake sponsor conducting or managing such events designated by it.

(19) STATE RACING COMMISSION. – The term “State racing commission” means an entity designated by State law or regulation that has jurisdiction over the conduct of horseracing within the applicable State.

(20) TRAINER. – The term “trainer” means an individual that is engaged in the training of covered horses and is the recipient of direct or indirect compensation or anything of value for such services or expertise.

(21) TRAINING FACILITY. – The term “training facility” means a location that is not a racetrack licensed by a State racing commission that operates primarily to house covered horses or to conduct official timed workouts, or is sanctioned by the United States Trotting Association to conduct harness horse workouts or qualifying races.

(22) VETERINARIAN. – The term “veterinarian” means a licensed veterinarian who provides veterinary services to covered horses.

(23) WORKOUT. – The term “workout” means a timed running of a horse over a predetermined distance not associated with a purse race, or the competing of a horse in a harness qualifying race.

SEC. 4. RECOGNITION OF THE RACEHORSE HEALTH AND SAFETY

ORGANIZATION.

(a) IN GENERAL. – The Association of Racing Commissioners International (“ARCI”) is the existing umbrella organization of the official rule making bodies for covered horse racing. If all of the States participating in the ARCI become participating States, then the ARCI shall serve as the “RHSO” for purposes of this interstate compact. The RHSO shall have separate committees to develop, refine, maintain, and enforce the medication control program and the racetrack safety program in accordance with the needs of each breed, and specific to each breed’s unique performance model. These separately constituted committees shall develop, refine, maintain, and enforce separate programs for each breed, and shall not develop, refine, maintain, or enforce any medication control program upon a breed other than the breed it is regulating, except upon consent of the majority of the committee for the other breed or breeds. If fewer than all of the States participating in the ARCI become participating States, then the interstate compact will require the formation of a separate entity that represents only the participating States to act as the RHSO. The RHSO is officially designated to administer the refinement and implementation of a mandatory horseracing medication control program and a racetrack and racehorse safety program for covered horses, separately for each breed and based upon published and peer-reviewed scientific data; and no rule shall be developed, refined or maintained as a uniform rule if applicable to all breeds without

the consent of each of the respective breeds' Industry members as defined below. The development, refinement, and implementation of a mandatory medication control program must otherwise be uniform and applicable to each breed according to its unique performance model, recognizing the differences between the thoroughbred, quarter horse, and harness performance models, and supported by peer-reviewed scientific data applicable to that breed's specific performance model. For covered persons, under this interstate compact, the RHSO will be granted powers to issue subpoenas, investigate rule violations, and obtain biological samples from covered horses as currently exist with State racing commissions of the participating States, provided that any infractions are referred to the appropriate State racing commission for enforcement action unless otherwise agreed to by the State racing commission and the RHSO. The RHSO shall have the power to establish committees to assist in its work, and shall exercise that power to establish separate and breed-specific committees under the following titles: the Medication Control Committee, the Scientific Advisory Committee, the Racetrack Safety Standing Committee, the Model Rules Committee, and the Advisory Committee, as described in this Act.

(b) BOARD OF DIRECTORS. – The RHSO shall be governed by a Board of Directors composed of five (5) members elected annually by the five (5) participating States that have the greatest number of racing days as determined annually, with each State electing one (1) member to represent it; up to nine (9) at-large members elected annually by the remaining participating States, of which three shall represent the harness, thoroughbred, and quarter horse industries, respectively; and one (1) member appointed

by the Chair of the Board of Directors. The Chair shall be elected annually from among the Board members by the five (5) members from the top five (5) participating States.

(c) MEDICATION CONTROL COMMITTEES. – For the purposes of developing, refining, and implementing a mandatory horseracing medication control program and a racetrack safety program for covered horses, covered persons, and covered horseraces consistent with this Act, the RHSO shall create one Medication Control Committee for each breed, whose members shall include –

(1) all members of the RHSO Board of Directors from the five (5) participating States that have the greatest number of racing days as determined annually; and

(2) four (4) additional members selected from among the various racing constituencies by the RHSO Board of Directors. Specifically, two (2) members shall represent horsemen’s associations for the specific breed at issue, one (1) member shall represent a national racetrack veterinarians’ association, and one (1) member shall be a regulatory pharmacologist selected by and from one of the five (5) participating States that have the greatest number of racing days as determined annually.

(d) SCIENTIFIC ADVISORY COMMITTEES. – The RHSO shall establish separately constituted Scientific Advisory Committees (SACs) to develop, refine, and maintain separate and breed-specific horse racing medication control programs—one (1) for harness, one (1) for thoroughbred, and one (1) for the quarter horse industry—if deemed necessary to provide advice and guidance to the Board of Directors and the relevant Medication Control Committee on the refinement and maintenance of the

horseracing medication control programs unique to each breed. Each SAC shall be composed of seven (7) members as follows:

(1) REGULATORY MEMBERS. – three (3) members of each SAC shall be selected by the Board of Directors of the RHSO from within the equine industry and shall be selected for their knowledge of equine exercise physiology, forensic toxicology, or equine pharmacology.

(2) INDUSTRY MEMBERS. – four (4) members of each SAC shall be nominated by the respective racing constituencies as follows:

(A) for the SAC for Harness Racing, the Industry members shall be nominated by the United States Trotting Association.

(B) for the SAC for Quarter Horse Racing, the Industry members shall be nominated by the American Quarter Horse Association.

(C) for the SAC for Thoroughbred Racing, the Industry members shall be nominated by the National Horsemen's Benevolent and Protective Association.

(3) QUALIFICATION. – The Industry members of each SAC shall have significant, recent experience in medication control research, and hold a Ph.D. or equivalent degree, with research experience in medication or toxicology research, and shall be further qualified as follows:

(A) At least one (1) member will be a mathematician or statistician with experience in threshold determination.

(B) At least one (1) member will be an equine exercise physiologist.

(C) At least one (1) member will be an equine pharmacologist.

(D) At least one (1) member will be an analytical chemist.

(4) CHAIR. – The RHSO shall appoint each SAC chair from among the committee members.

(e) RACETRACK SAFETY STANDING COMMITTEES. –

(1) IN GENERAL. – The RHSO shall establish one Racetrack Safety Standing Committee for each breed, which shall provide advice and guidance to the Board of Directors on the development and maintenance of the racetrack safety program separately constituted for each of the breeds.

(2) MEMBERSHIP. – The Racetrack Safety Standing Committee for each breed shall be composed of seven (7) members as follows:

(A) Regulatory members: three (3) of the members shall be selected by the RHSO Board of Directors from within the equine industry, selected for their knowledge of racetrack safety, management, and maintenance.

(B) Industry members: four (4) of the members shall be nominated by racing constituencies as follows:

(i) for the Racetrack Safety Standing Committee for Harness Racing, the Industry members shall be nominated by the United States Trotting Association.

(ii) for the Racetrack Safety Standing Committee for Quarter Horse Racing, the Industry members shall be nominated by the American Quarter Horse Association.

(iii) for the Racetrack Safety Standing Committee for Thoroughbred Racing, the Industry members shall be nominated by the National Thoroughbred Racing Association Safety and Integrity Alliance.

(C) CHAIR. – The chair of each Racetrack Safety Standing Committee shall be selected from among the committee members by majority vote of the Regulatory members on that committee.

(f) MODEL RULES COMMITTEES. –

(1) IN GENERAL. – The RHSO shall establish one Model Rules Committee for each breed, which shall provide advice and guidance to the Board of Directors on the RHSO Model Rules to govern the medication control program for each of the breeds.

(2) MEMBERSHIP. – The Model Rules Committee for each breed shall be composed of seven (7) members as follows:

(A) Regulatory members: three (3) of the members shall be selected by the RHSO Board of Directors from within the equine industry, selected for their knowledge of equine exercise physiology, forensic toxicology, or equine pharmacology.

(B) Industry members: four (4) of the members shall be nominated by racing constituencies as follows:

(i) for the Model Rules Committee for Harness Racing, the Industry members shall be nominated by the United States Trotting Association.

(ii) for the Model Rules Committee for Quarter Horse Racing, the Industry members shall be nominated by the American Quarter Horse Association.

(iii) for the Model Rules Committee for Thoroughbred Racing, the Industry members shall be nominated by the National Horsemen's Benevolent and Protective Association.

(C) CHAIR. – The chair of each Model Rules Committee shall be selected from among the committee members by majority vote of the Regulatory members on that committee.

(g) CONFLICTS OF INTEREST. – The RHSO shall exclude any covered person from participating as a voting member of its Board of Directors. Any individual members of the SACs and the Racetrack Safety Standing Committees must disclose any and all potential conflicts of interest prior to accepting selection as a committee member and notify the RHSO immediately upon engaging in any activity that could be perceived as a conflict. The RHSO will assess potential conflicts on a case-by-case basis and will determine, in its sole discretion, whether the potential conflict requires removal from the committee or denial of the opportunity to vote on a pending item. All individuals appointed to the SACs or the Racetrack Safety Standing Committees must declare any conflicts of interest directly pertinent to the agenda prior to the beginning of any meeting. If any specific item of discussion relates to the direct financial interest of any member, that member must recuse himself or herself from voting on a matter involving that item of discussion.

(h) ETHICS REQUIREMENT. – Any member with a federal or State civil or criminal violation related to horse racing, or as to whom there is evidence of behavior injurious to the integrity of horse racing, including contract violations, perjury, or other injurious behavior, will be ineligible to serve on any RHSO committee.

(i) FUNDING. –

(1) INITIAL FUNDING. –

(A) IN GENERAL. – The RHSO shall be funded by annual dues assessed to member racing regulatory authorities.

(B) BORROWING. – The RHSO may incur debt to fund programs required by this Act but may not accept loans from any covered person or equine industry representative.

(C) ANNUAL CALCULATION OF AMOUNTS REQUIRED. –

(i) IN GENERAL. – Not later than the date that is ninety (90) days before the program effective date, and not later than November 1 each year thereafter, the RHSO shall determine and provide to each State racing commission the estimated amount required from each State –

(I) to fund the State’s proportionate share of the non-State-administered horseracing medication control program and racetrack safety program for each breed. Those funds shall be assessed separately for the harness, thoroughbred, and the quarter horse industries operating within that state; and shall be specifically earmarked for the

development, refinement, and maintenance of a mandatory horse racing medication control program and a racetrack safety program specific and limited to each breed's unique performance model and developed safety protocols. Said funds shall not be commingled for the use or subsidy of any other breed; and

(II) to liquidate any loan or funding shortfall in the current calendar year and any previous calendar year.

(ii) BASIS OF CALCULATION. – The amounts calculated under clause (i) shall be based on the annual breed-specific budget of the RHSO for the breed in that state for the following year as approved by the Board of Directors after taking into account the projected number of racing starts for the year separately for each breed in that State and from any other sources of RHSO income.

(iii) RATE INCREASES. –

(3) IN GENERAL. – A proposed increase in the amount required under this subparagraph shall be reported to the State racing commissions no less than six (6) months before the estimated assessment.

(II) NOTICE AND COMMENT. – No increase shall exceed five percent (5%) over the preceding year

unless agreed upon by a two-thirds majority of the RHSO Board of Directors.

(D) ASSESSMENT AND COLLECTION OF FEES BY STATES. –

(i) NOTICE OF ELECTION. – Any State racing commission that elects to remit fees pursuant to this subsection shall notify the RHSO of such election not later than sixty (60) days before the program effective date.

(ii) REQUIREMENT TO REMIT FEES – After a State racing commission makes a notification under subparagraph (i), the election shall remain in effect, and the State racing commission shall be required to remit fees pursuant to this paragraph according to a schedule developed by the RHSO and approved by the State racing commission.

(iii) WITHDRAWAL OF ELECTION. – A State racing commission may cease remitting fees under this paragraph not earlier than one (1) year after notifying the RHSO of its intent to do so.

(iv) DETERMINATION OF METHODS. – Each State racing commission shall determine, subject to the applicable laws, regulations, and contracts of the State, the method by which the requisite amount of fees, from sources including but not limited to foal registration fees, sales contributions, starter fees, track fees,

and other fees on covered persons, shall be allocated, assessed, and collected.

(E) ASSESSMENT AND COLLECTION OF FEES BY THE
RHSO. –

(i) CALCULATION. – In the event a State racing commission elects not to remit fees for its share of the non-State-administered horseracing medication control program and the racetrack safety program, the RHSO shall calculate State-specific costs on a per-starter basis separately for each breed racing in that State from those fees set forth above in Section 4(h)(1)(D)(iv) for the previous twelve (12) months of live racing in the State.

(ii) ALLOCATION. – The RHSO Board of Directors may allocate such costs by an equal assessment on all covered persons participating in a State that has chosen not to remit fees for the non-State-administered horseracing medication control program and the racetrack safety program; or the total State assessment may be allocated to each licensed racetrack based upon the number of live racing days conducted for the previous twelve months.

(iii) ASSESSMENT AND COLLECTION. – The RHSO shall notify in writing or electronically all covered persons subject to a direct assessment of fees by the RHSO at least thirty (30) days prior to imposition of the assessment. The RHSO assessment shall be communicated in writing and shall be paid no later than sixty

(60) days from the date of assessment. The RHSO shall charge interest on nonpayments and shall notify the State racing commission that a default has occurred, and the covered person may be prohibited from participating in or conducting a covered horserace in any participating State upon order of that State's racing commission.

(3) IN GENERAL. – The RHSO shall assess a fee equal to the allocation made under subparagraph (ii) and shall collect such fee according to such rules as the RHSO may promulgate.

(II) REMITTANCE OF FEES. – Covered persons described in subparagraph (ii) shall be required to remit such fees to the RHSO.

(iv) LIMITATION. – A State racing commission that does not elect to remit fees pursuant to subparagraph (D) or that withdraws its election under such subparagraph may impose or collect from any person a fee or tax relating to medication control or racetrack safety matters for covered horseraces as it deems necessary to regulate racing to the extent that those matters remain under the State Racing Commission's jurisdiction.

(F) FEES AND FINES. – Fees and fines imposed within a specific breed by the RHSO shall be allocated toward funding the RHSO and its activities within that breed.

(G) RULE OF CONSTRUCTION. – Nothing in this Act shall be construed to require –

(i) the appropriation of any amount to the RHSO; or

(ii) the Federal Government to guarantee the debts of the

RHSO.

(j) The RHSO shall offer its horseracing medication control program and racetrack safety program services to non-participating States that choose to use those services on the same basis as it offers those services to participating States, provided that the use of such services by non-participating States shall make them liable for payment of dues and assessments on the same basis as participating States are liable for dues and assessments. Such dues and assessments may be collected from such non-participating States in the same way that they are collected from participating States. Any non-participating State that actually uses the RHSO's horseracing medication control program or racetrack safety program services will be deemed to have consented to the payment of such dues and assessments.

(k) QUORUM. – For all items where Board of Directors approval is required, the RHSO shall have present a majority of members either in person or remotely.

SEC. 5. JURISDICTION OF THE STATE RACING COMMISSIONS AND THE RHSO.

(a) IN GENERAL. – Beginning on the program effective date, the RHSO and the State racing commissions, each within the scope of their power and responsibilities under this Act, shall –

(1) implement and adopt the horseracing medication control program and the racetrack safety program; and

(2) the State racing commissions shall retain the same enforcement authority that they had before the program effective date.

Within ninety (90) days of enactment, the State racing commissions shall enter into a Memorandum of Understanding authorizing the RHSO to serve as agent of the commissions to assist or undertake the commissions' enforcement efforts with authority similar to such authority of the State racing commissions before the program effective date, as each State racing commission deems appropriate.

(b) PREEMPTION. – The rules of the RHSO promulgated in accordance with this Act shall preempt any provision of State law or regulation of participating States with respect to matters within the jurisdiction of the RHSO under this Act.

(c) DUTIES. – The RHSO –

(1) Shall establish and refine medication control guidelines.

(2) All participating States will be required to adopt the breed-specific Model Rules established by the RHSO.

(3) State racing commissions will continue to administer and enforce the rules placed into effect by the RHSO based on the recommendations of the SACs and the Racetrack Safety Standing Committees.

(d) REGISTRATION OF COVERED HORSES. –

(1) IN GENERAL. – As a condition of participating in covered races and in the care, ownership, treatment, and training of covered horses, a covered person

shall register each covered horse with the appropriate breed registry. Each breed registry shall notify the RHSO of all such registrations.

(2) INELIGIBILITY. – A covered person shall formally notify RHSO on the day that each covered horse is permanently ineligible to be entered in a covered horserace.

(e) PROCEDURES WITH RESPECT TO RULES OF THE RHSO. –

(1) MEDICATION CONTROL. –

(A) IN GENERAL. – Recommendations for rules regarding medication control shall be developed in accordance with section 6.

(B) CONSULTATION. – The RHSO Model Rules Committees shall consult with the SACs and the RHSO Board of Directors on all RHSO medication control rules.

(i) An open meeting of each affected SAC will be held at least 90 days in advance of any medication control rules being considered by any RHSO Model Rules Committee. During this meeting, any industry constituents or their representatives, including but not limited to the Racing Medication and Testing Consortium, the Harness Racing Medication Collaborative, and the American Quarter Horse Association Medication Committee, may provide input. Said input must be recorded if given in person, and also made part of the record of each affected SAC if given in writing and must be transcribed. No other meetings of the SACs will be required to be open. The agenda, location, and date of this

open meeting must be posted on the RHSO website, sent to the industry constituents or their representatives, and independently provided to anyone requesting such notification, no less than 45 days in advance of the SAC's open meeting.

(ii) Any model rules or model rules changes pertaining to medication control under consideration by the RHSO will be posted on the RHSO website, and independently sent to the respective Executive Director or equivalent of each racing jurisdiction, and to anyone requesting such notification, no less than 45 days in advance of the Model Rules Committee meeting.

(iii) The Model Rules Committee meeting will be open to the public. Any recommended changes to the Model Rules will be presented by the committee's chairperson or his or her representative.

(2) RACETRACK SAFETY. – Recommendations for rules regarding racetrack safety shall be developed by the breed-specific Racetrack Safety Standing Committees of the RHSO.

(A) An open meeting of the affected Racetrack Safety Standing Committee will be held at least 90 days in advance of any racetrack safety rules being considered by the RHSO Model Rules Committee. During this meeting, any industry constituents or their representatives may provide input. No other meetings of the Racetrack Safety Standing Committees will be required to be open. The agenda and date of this open meeting

must be posted on the RHSO website, and independently provided to anyone requesting such notification no less than 45 days in advance of the Racetrack Safety Standing Committee's open meeting.

(B) Any model rules or model rule changes pertaining to racetrack safety under consideration by the RHSO will be posted on the RHSO website, and independently sent to the respective Executive director or equivalent of each racing jurisdiction, and to anyone requesting such notification no less than 45 days in advance of the Model Rules Committee meeting.

(C) The Model Rules Committee meeting will be open to the public. Any recommended changes to the racetrack safety rules will be presented by the committee's chairperson or his or her representative.

(f) With respect to subsection (e), the applicable State racing commissions shall adopt all changes in the Model Rules with respect to medication control and racetrack safety within 90 days of the adoption by the RHSO.

SEC. 6. HORSERACING MEDICATION CONTROL PROGRAM.

(a) PROGRAM REQUIRED. –

(1) IN GENERAL. – Not later than the program effective date, and after notice and an opportunity for public comment in accordance with section 5, the RHSO shall establish a horseracing medication control program applicable to all covered horses in a specific breed (thoroughbred, harness, or quarter horses) and only as to that breed, covered persons, and covered horseraces.

(2) CONSIDERATION OF ALL BREEDS. – In developing the separate horseracing medication control program with respect to each breed of horse, the RHSO shall account for the unique characteristics and needs of such breed and its racing performance model, including the varying number and nature of races per year for each breed and their different performance models.

(i) MEDICATION REGULATIONS. – Separate medication regulations will be developed for each separate breed, taking into account each breed's unique characteristics and needs. These regulations will contain breed-specific permissible thresholds, medication withdrawal guidelines, and other provisions as necessary to reflect the significant differences in physical characteristics between breeds. The RHSO will not apply the same regulations to standardbred horses as it does to thoroughbred horses without the support of three-quarters of the members of the relevant SAC.

(ii) TIME FRAME. – Each SAC, in consultation with relevant industry constituencies, will develop separate medication regulations specifically applicable to each breed within one year of the program effective date. Until such separate medication regulations are established, existing regulations in each State will remain in effect.

(b) CONSIDERATIONS IN DEVELOPMENT OF PROGRAM. – In developing the horseracing medication control program, the RHSO shall take into consideration the following:

(1) Covered horses should compete only when they are free from the active pharmacological effect of medications, other foreign substances, and methods that affect their natural performance, unencumbered by either foreign substances or disease conditions.

(2) Covered horses that are injured or pronounced by a veterinarian to be unsound should not train or participate in covered races, and the use of medications, other foreign substances, and treatment methods that mask pain in order to allow injured or unsound horses to train or race are prohibited.

(3) Rules, standards, procedures, and protocols regulating medication and treatment methods for covered horses and covered races should be uniform within each breed and shall not be imposed on all three breeds unless specifically adopted by the Medication Control Committee for each of the breeds, which shall then be uniformly administered nationally with respect to all covered horses within that breed that are to be made eligible or whose offspring are to be made eligible to participate in horseracing in any participating State.

(c) ACTIVITIES. – The following activities shall be carried out under the horseracing medication control program:

(1) STANDARDS FOR MEDICATION CONTROL. –

(A) Upon adoption of this Act, existing regulations in place in each State will remain in effect for one year, until the RHSO adopts breed-specific regulations as Model Rules. At such time, the RHSO Model Rules shall by rule be adopted by all State racing commissions of participating States and of any non-participating States that wish horses

racing in their State to be eligible also to race in participating States. If a State racing commission fails to adopt the RHSO Model Rules, then covered horses that race in that State – except for horses and their offspring that race in that State solely at RHSO-accredited racetracks – will be ineligible to race in any participating State unless and until the RHSO Model Rules are so adopted in that State.

(B) Not more than two years after adoption of this Act, all laboratories testing covered horses must be ISO/IEC 17025-accredited and accredited by an accreditation body sanctioned by the RHSO.

(2) REVIEW PROCESS FOR ADMINISTRATION OF MEDICATION.

– The RHSO will develop an SAC review process for the administration of any medication to a covered horse during the 24-hour period preceding the next racing start of the covered horse.

(3) AGREEMENTS REQUIREMENTS. – The RHSO will develop requirements with respect to agreements under section 6(e).

(4) MEDICATION CONTROL ENFORCEMENT AGENCIES. – The State racing commissions will continue to exercise enforcement powers in their respective jurisdictions.

(5) RESULTS MANAGEMENT. – The State racing commissions will conduct and oversee medication control results management, including independent investigations, charging and adjudication of potential medication control rule violations, enforcement of any administrative sanctions for such violations, and referral for criminal law enforcement investigation.

(6) TESTING. – The State racing commissions shall perform and manage test distribution planning (including intelligence-based testing), the sample collection process, and in-competition and out-of-competition testing (including no-advance-notice testing).

(7) TESTING LABORATORIES. – The accrediting body selected by the RHSO shall accredit testing laboratories based upon the standards established under this Act, and shall monitor, test, and audit accredited laboratories to ensure continuing compliance with accreditation standards.

(8) SAC. – Each SAC shall, in consultation with the State racing commissions, review existing lists of permitted and prohibited medications, methods, and substances for recommendation to, and approval by, the RHSO.

(d) PROHIBITION. – Except as provided in subsections (e) and (f), the medication control program shall prohibit the administration of any substance that is prohibited under the applicable rules specific to each breed, to a covered horse within 48 hours of its next racing start, effective as of the program effective date.

(e) ADVISORY COMMITTEE STUDIES AND REPORTS. –

(1) IN GENERAL. – Not later than the program effective date, the RHSO will convene an advisory committee for each breed, composed of the relevant SACs and other industry experts to conduct a study on the use of furosemide on horses during the 48-hour period before the start of a race, including the effect of furosemide on equine health and the integrity of competition and any other matter the RHSO considers appropriate. Until the study is completed, the use of race-

day furosemide shall be continued except as may be limited in certain types of stake races pursuant to the requirements of each of those stake races.

(2) REPORT. – Not later than three years after the program effective date, the RHSO shall direct each advisory committee to submit to the RHSO a written report on the furosemide study that includes recommended changes, if any, to the prohibition in subsection (d) for each breed.

(3) MODIFICATION OF PROHIBITION. –

(A) IN GENERAL. – After receipt of the reports required by paragraph (2), the RHSO may, by majority vote of the RHSO Board of Directors, modify the prohibition in subsection (d) for each breed and, notwithstanding subsection (f), any such modification shall apply to all States beginning on the date that is three years after the program effective date.

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

- (i) That the modification is warranted for that breed;
- (ii) That the modification is in the best interests of the horse of that breed; and
- (iii) That furosemide has no performance-enhancing effects on individual horses of that breed other than to stabilize or curtail Equine Induced Pulmonary Hemorrhage.

(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 RHSO, at such time and in such manner as the RHSO 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) EXEMPTIONS. – An exemption under paragraph (1) may not be requested for covered horses competing in graded stakes races.

(3) CONTENTS OF REQUEST. – A request under paragraph (1) shall specify the applicable State racing commission's requested limitations on the use of furosemide that would apply to the State under the horseracing medication control program during such period. Such limitations shall be no less restrictive on the use and administration of furosemide than the restrictions set forth in the State's laws and regulations effective as of September 1, 2020.

(4) GRANT OF EXEMPTION. – Subject to subsection (e)(3), the RHSO shall grant an exemption requested under paragraph (1) for the remainder of such period and shall allow that use of furosemide on covered horses in the applicable State, in accordance with the requested limitations.

(g) BASELINE MEDICATION CONTROL RULES. – Existing State medication rules in place for a specific breed at the time of the effective date of the Act will serve as the baseline medication control rules for covered racehorses within the breed for a period of at least one year, while the RHSO develops distinct, breed-specific medication control rules.

(A) DEVELOPMENT BY SACS. – After the breed-specific medication rules are in place, each SAC, in consultation with the State racing commissions and industry constituents, may develop and submit to the RHSO for approval proposed modifications to the baseline medication control rules.

(i) Not more than one year after the Act goes into effect, the RHSO will establish three distinct medication control programs for the three racing breeds, separately applicable to each breed, taking into account recommendations from the SACs.

(ii) Not more than three years after the Act goes into effect, all existing RHSO medication and threshold rules will be reviewed by each SAC, and all available research reviewed. Medication thresholds and penalty recommendations may be revised as each substance is reviewed.

(iii) Not more than three years after the Act goes into effect, the use of furosemide on race day will be reviewed and relevant research considered to determine whether its continued use on race day is justified.

(B) RHSO APPROVAL. – If the RHSO approves a proposed modification under this paragraph, the proposed modification will go into effect in all jurisdictions within 90 days of such approval.

SEC. 7. RACETRACK SAFETY PROGRAM.

(a) ESTABLISHMENT AND CONSIDERATIONS. –

(1) IN GENERAL. – Not later than the program effective date, and after notice and an opportunity for public comment in accordance with section 5, the

RHSO shall establish a racetrack safety program applicable to all covered horses, covered persons, and covered horseraces.

(2) CONSIDERATIONS IN DEVELOPMENT OF SAFETY

PROGRAM. – In the development of the racetrack safety program, the RHSO and the State racing commissions shall take into consideration existing safety standards including the National Thoroughbred Racing Association Safety and Integrity Alliance Code of Standards, the International Federation of Horseracing Authorities' International Agreement on Breeding, Racing, and Wagering, and the British Horseracing Authority's Equine Health and Welfare Program.

(b) ELEMENTS OF RACETRACK SAFETY PROGRAM. – The racetrack safety program shall include the following:

(1) A set of training and racing safety standards and protocols taking into account regional differences and the character of different racing facilities.

(2) A set of training and racing safety standards, uniform within each racing breed and unique to its performance model, consistent with the humane treatment of covered horses, which may include lists of permitted and prohibited practices or methods that might be found to affect safety.

(3) A racing surface quality maintenance system that –

(A) takes into account regional differences and the character of different racing facilities, including differences between breeds; and

(B) may include requirements for track surface design and consistency and established standard operating procedures related to track

surface monitoring and maintenance (such as standardized seasonal assessment, daily tracking, and measurement).

(4) A set of track safety standards and protocols, uniform within each racing breed, that may include rules governing oversight and movement of covered horses and human and equine injury reporting and prevention.

(5) Programs for injury and fatality analysis that may include pre- and post-training and race inspections, use of a veterinarian's list, and concussion protocols.

(6) The undertaking of investigations at racetrack and non-racetrack facilities related to safety violations.

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

(8) A schedule of administrative sanctions for violations.

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

(10) Management of violation results.

(11) Programs relating to safety and performance research and education.

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

(c) ACTIVITIES. –

(1) STANDARDS FOR RACETRACK SAFETY. – The development by the RHSO Racetrack Safety Standing Committees under section 5(d)(2) of

standards for racetrack and horseracing safety shall be uniform within each racing breed.

(2) STANDARDS FOR SAFETY AND PERFORMANCE

ACCREDITATION.

(A) IN GENERAL. – Not later than 120 days before the program effective date, the RHSO, in consultation with the Racetrack Safety Standing Committees, shall issue by rule in accordance with section 5 –

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

(ii) the process by which a racetrack within each breed may achieve and maintain accreditation by the RHSO; and

(iii) the penalties the RHSO shall mete out in the event of noncompliance by a racetrack.

(3) MODIFICATIONS. –

(A) IN GENERAL. – The RHSO may modify rules establishing the standards issued under subparagraph (2)(A) as the RHSO considers appropriate.

(B) NOTICE AND COMMENT. – The RHSO shall post on its website and send notice to all individuals requesting the same, and provide an opportunity for public comment with respect to any modification under subparagraph (2)(A) in accordance with section 5.

(4) EXTENSION OF PROVISIONAL OR INTERIM

ACCREDITATION. – The RHSO may, by rule in accordance with section 5,

extend provisional or interim accreditation to a racetrack accredited by the National Thoroughbred Racing Association Safety and Integrity Alliance or at a meeting sanctioned by the United States Trotting Association or any entity empowered to perform such function on behalf of the American Quarter Horse Association on a date before the program effective date but for not longer than one year.

(5) NATIONWIDE SAFETY AND PERFORMANCE DATABASE. –

(A) IN GENERAL. – Not later than one year after the program effective date, and after notice and an opportunity for public comment in accordance with section 5, the RHSO, in consultation with the State racing commissions, shall develop and maintain a nationwide database of racehorse safety, performance, health, and injury information for the purpose of conducting an epidemiological study.

(B) COLLECTION OF INFORMATION. – The RHSO may require covered persons and equine industry representatives to collect and submit for inclusion in the database described in subparagraph (A) such information as the RHSO may require to further the goal of increased horse welfare.

SEC. 8. RULE VIOLATIONS AND CIVIL SANCTIONS.

(a) DESCRIPTION OF RULE VIOLATIONS. –

(1) IN GENERAL. – The RHSO shall issue, by rule in accordance with section 5, a description of safety, performance, and medication control rule violations applicable to covered horses, covered persons, and covered horseraces.

(2) ELEMENTS. – The description of rule violations established under paragraph (1) may include the following:

(A) With respect to a covered horse, a rebuttable presumption of liability for covered trainers for—

(i) the presence of a prohibited substance or method in a sample or the use of a prohibited substance or method;

(ii) the presence of a permitted substance in a sample in excess of the amount allowed by the horseracing medication control program; and

(iii) the use of a permitted method in violation of the applicable limitations established under the horseracing medication control program.

(B) Attempted use of a prohibited substance or method on a covered horse.

(C) Possession of any prohibited substance or method.

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

(E) Administration or attempted administration of any prohibited substance or method on a covered horse.

(F) Refusal or failure, without compelling justification, to submit a covered horse for sample collection.

(G) Failure to cooperate with the RHSO, a State racing commission, or an agent thereof during any investigation.

(H) Failure to respond truthfully, to the best of a covered person's knowledge, to a question of the RHSO, a State racing commission, or an agent thereof with respect to any matter under the jurisdiction of same.

(I) Failure of a racetrack to be in compliance with track safety standards.

(J) Tampering or attempted tampering with the application of the safety, performance, or medication control rules or process adopted by the RHSO, including—

(i) the intentional interference, or an attempt to interfere, with the RHSO, a State racing commission, or an agent thereof;

(ii) the procurement or the provision of fraudulent information to the RHSO, a State racing commission, or an agent thereof; and

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

(K) Trafficking or attempted trafficking in any prohibited substance or method.

(L) Assisting, encouraging, aiding, abetting, conspiring, covering up, or any other type of intentional complicity involving a safety, performance, or medication control rule violation or the violation of a period of suspension or eligibility.

(M) Threatening or seeking to intimidate a person with the intent of discouraging the person from the good faith reporting to the RHSO, a State racing commission, or an agent thereof under section 6(e), of information that relates to—

(i) an alleged safety, performance, or medication control rule violation; or

(ii) alleged noncompliance with a safety, performance, or medication control rule.

(b) TESTING LABORATORIES

(1) ACCREDITATION AND STANDARDS. – Not later than 120 days before the program effective date, the RHSO shall, in consultation with the State racing commissions, review existing Model Rules relating to Laboratory accreditation and testing standards. Notwithstanding existing rules, each laboratory must have an existing, or establish a consultation relationship with a United States Anti-Doping Agency Laboratory in order to maintain full capability of identifying emerging doping threats.

(2) ADMINISTRATION. – The accreditation of laboratories and the conduct of audits of accredited laboratories to ensure compliance with RHSO rules shall be administered by the accreditation body selected by the RHSO. This accreditation body shall have the authority to require specific test samples to be directed to and tested by laboratories having special expertise in the required tests.

(3) SELECTION OF LABORATORIES. –

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

(B) SELECTION BY THE RHSO. – If a State racing commission does not select an accredited laboratory under subparagraph (A), the RHSO shall select such a laboratory to test samples taken in the State concerned.

(c) RESULTS MANAGEMENT AND DISCIPLINARY PROCESS. –

(1) IN GENERAL. – Not later than 120 days before the program effective date, the RHSO shall review in accordance with section 5 the existing Model Rules of the ARCI applicable to each breed, and unless otherwise permitted, unique to that breed—

(A) rules for safety, performance, and medication control results management; and

(B) the disciplinary process for safety, performance, and medication control rule violations.

(2) ELEMENTS. – The rules and processes reviewed under paragraph (1) must include the following:

(A) Provisions for notification of safety, performance, and medication control rule violations.

(B) Hearing procedures.

(C) Standards for burden of proof.

(D) Presumptions.

(E) Evidentiary rules.

(F) Appeals.

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

(3) DUE PROCESS. – The rules established under paragraph (1) shall provide for adequate due process—including impartial hearing officers or tribunals commensurate with the seriousness of the alleged safety, performance, or medication control rule violation and the possible civil sanctions for such violation—as well as the right to counsel, to confront witnesses, to have a transcribed record of the proceedings to render a decision within sixty days of the close of the hearing.

(d) ADMINISTRATIVE SANCTIONS. –

(1) IN GENERAL. – The RHSO shall review existing Model Rules of the ARCI applicable to a specific breed, in accordance with section 5, imposing administrative sanctions against covered persons or covered horses for safety, performance, and medication control rule violations.

(2) REQUIREMENTS. – The rules established 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 safety, performance, and medication control rule violations.

(3) SEVERITY. – The administrative sanctions under paragraph (1) may include—

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

(B) with respect to medication control rule violators, an opportunity to reduce the applicable administrative sanctions that is comparable to the opportunity provided by the Protocol for Olympic Movement Testing of the United States Medication Agency.

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

SEC. 9. UNFAIR OR DECEPTIVE ACTS OR PRACTICES.

Each participating State shall by rule or statute cause to be treated as an unfair or deceptive act or practice the sale of a covered horse, or of any other horse in anticipation of its future participation in a covered race, if the seller—

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

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

(B) any other substance or method the RHSO determines has a long-term degrading effect on the soundness of the covered horse; and

(2) fails to disclose to the buyer the administration of the bisphosphonate or other substance or method described in paragraph (1)(B).

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