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1ST SESSION

S. 1820

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

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2019

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

A BILL

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

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 Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

13 (2) Approximately 40 percent of the 635,890
14 starts by Thoroughbred, Quarter Horse, and Stan-
15 dardbred racehorses in 2018 were made by horses
16 that competed in more than one State. Those Thor-
17 oughbred, Quarter Horse, and Standardbred race-
18 horses which participated in races in more than one
19 State in 2018 made over 55 percent of all United
20 States racing starts that year.

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

1 chasers of breeding stock and to the wagering pub-
2 lic, will improve the marketplace for domestic and
3 international sales of United States horses, will pro-
4 vide a platform for consistency with all major inter-
5 national horseracing standards, address growing do-
6 mestic concerns over disparities with international
7 rules, and provide for the safety and welfare of
8 horses and jockeys.

9 (4) The use of therapeutic medications in horse-
10 racing in the United States must place the health
11 and welfare of the horse at the highest level of pri-
12 ority while achieving consistency with the uses per-
13 mitted in major international horseracing jurisdic-
14 tions. Because the various States have been unable
15 to adopt a national uniform anti-doping and medica-
16 tion control program, national uniform regulations
17 with respect to the use of, and testing for, drugs ca-
18 pable of affecting the results of a horse race and
19 therapeutic medications used in horseracing, such
20 rules, procedures, and enforcement policies should be
21 implemented, consistent with internationally accept-
22 ed best practices, by an independent anti-doping and
23 medication control organization authorized by an act
24 of Congress.

1 (5) For human sports, Congress has dem-
2 onstrated its commitment to fair competition
3 through legislation, oversight, funding, and by its
4 execution of an international treaty, the UNESCO
5 International Convention Against Doping in Sport.
6 By ratifying the UNESCO Convention, the United
7 States agreed to adopt appropriate measures con-
8 sistent with the principles of the World Anti-Doping
9 Code and to take appropriate action, including legis-
10 lation, regulation, policies, or administrative prac-
11 tices to implement that commitment.

12 (6) In the context of Olympic sports, Congress
13 has recognized the United States Anti-Doping Agen-
14 cy as an independent anti-doping and medication
15 control organization possessing high-level expertise
16 and credibility in the development and administra-
17 tion of an anti-doping and medication control pro-
18 gram.

19 (7) Congress supports the establishment of an
20 independent anti-doping and medication control or-
21 ganization to ensure the wagering public's con-
22 fidence in the fairness of horseracing and to
23 strengthen and harmonize anti-doping and medica-
24 tion control rules and sanctions for horseracing in
25 order to ensure fair and transparent horseraces and

1 to deter the commission of anti-doping and medica-
2 tion control rule violations.

3 (8) The movement of horses among the States
4 for the purpose of participating in covered horse-
5 races, the widespread acceptance, receipt, and trans-
6 mission of wagers on covered horseraces in interstate
7 commerce, and the need to ensure integrity of com-
8 petition in, and wagering on, covered horseraces
9 warrant congressional action as set forth in this Act.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) **AUTHORITY.**—The term “Authority” means
13 the independent Horseracing Anti-Doping and Medi-
14 cation Control Authority established by section 5.

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

17 (3) **COVERED HORSERACE.**—The term “covered
18 horserace” means any horserace that has a substan-
19 tial relation to interstate commerce, including any
20 horserace that is the subject of interstate off-track
21 wagers.

22 (4) **COVERED HORSE.**—The term “covered
23 horse” means any Thoroughbred, Quarter, or Stan-
24 dardbred horse, beginning on the date of the horse’s
25 first timed and reported workout at a race track

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

4 (5) COVERED PERSONS.—The term “covered
5 persons” means all trainers, owners, veterinarians,
6 persons (legal and natural) licensed by a State rac-
7 ing commission and the agents, assigns and employ-
8 ees of such persons and other horse support per-
9 sonnel who are engaged in the care, training, or rac-
10 ing of covered horses.

11 (6) EQUINE CONSTITUENCIES.—The term
12 “equine constituencies” means, collectively, the own-
13 ers and breeders, trainers, racetracks, veterinarians,
14 State racing commissions, and jockeys.

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

23 (8) HORSERACING ANTI-DOPING AND MEDICA-
24 TION CONTROL PROGRAM.—The term “horseracing

1 anti-doping and medication control program” means
2 the program established under section 6.

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

7 (10) JOCKEY.—The term “jockey” means a
8 rider or driver of a covered horse in covered horse-
9 races.

10 (11) MEDICATION AND REGULATORY EX-
11 PERTS.—The term “medication and regulatory ex-
12 perts” means organizations or associations that are
13 actively involved in the establishment of equine
14 medication standards, or groups or associations rep-
15 resenting entities responsible for the current regula-
16 tion of the equine industry, or groups or associations
17 representing equine practitioners and veterinarians.

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

22 (13) PROHIBITED METHODS.—The term “pro-
23 hibited methods” means any methods that are on
24 the list of prohibited methods identified in section
25 6(g).

1 (14) PROHIBITED SUBSTANCES.—The term
2 “prohibited substances” means any substances that
3 are on the list of prohibited substances identified in
4 section 6(g).

5 (15) PERMITTED METHODS.—The term “per-
6 mitted methods” means those methods identified in
7 the list of permitted methods identified in section
8 6(g).

9 (16) PERMITTED SUBSTANCES.—The term
10 “permitted substances” means those substances con-
11 tained in the list of permitted substances identified
12 in section 6(g).

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

16 (18) STATE RACING COMMISSION.—The term
17 “State racing commission” means that entity des-
18 ignated by State statute or, in the absence of stat-
19 ute, by regulation, with jurisdiction to regulate the
20 conduct of horseracing within the State.

21 (19) TRAINERS.—The term “trainer” means an
22 individual engaged in the training of covered horses.

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

1 (21) **WORKOUT.**—The term “workout” means a
2 timed running of a horse over a predetermined dis-
3 tance not associated with a race or, with regard to
4 a horse taking part in harness or pace racing, its
5 first qualifying race.

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

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

13 (b) **POWERS AND AUTHORITY.**—

14 (1) **IN GENERAL.**—The Authority shall be es-
15 tablished as a private, independent, self-regulatory,
16 nonprofit corporation with responsibility for devel-
17 oping and administering an anti-doping and medica-
18 tion control program for covered horses, covered per-
19 sons, and covered horseraces consistent with the pro-
20 visions of this Act.

21 (2) **POWERS.**—The Authority—

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

- 1 (i) access to offices, track facilities,
2 and other places of business of licensees;
3 (ii) search and seizure;
4 (iii) issuance and enforcement of sub-
5 poenas and subpoenas duces tecum; and
6 (iv) other investigatory powers; and
7 (B) with respect to an unfair or deceptive
8 act or practice described in section 7, may rec-
9 ommend that the Commission commence an en-
10 forcement action.

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

17 (c) EXCLUSIVE JURISDICTION AND OVERSIGHT.—

18 (1) JURISDICTION OF COMMISSION.—The Com-
19 mission shall have exclusive jurisdiction over all
20 horseracing anti-doping and medication control mat-
21 ters consistent with this Act.

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

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

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

10 (1) an interstate compact is established that in-
11 cludes among its members 75 percent of the States
12 in which starts in covered races occurred during the
13 calendar year preceding the formation of the com-
14 pact and those States which collectively hosted not
15 less than 90 percent of the total racing starts of cov-
16 ered horses in covered races for the two-year period
17 preceding the formation of the compact; and

18 (2)(A) all member States enter into and main-
19 tain an agreement with the Authority for services
20 consistent with the anti-doping and medication con-
21 trol program provided for in section 6 in those
22 States; or

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

1 regulators, race tracks, testing laboratories, bettors,
2 and jockeys) by persons who conform to the conflict
3 of interest restrictions set forth in section 5(d); obli-
4 gates the compact to pay the costs of winding down
5 the Authority and transitioning its operations to the
6 compact; provides for uniform anti-doping and medi-
7 cation control regulations among all member States,
8 consistent with section 6 and no less restrictive than
9 the Authority's most recent anti-doping and medica-
10 tion control program; and is governed and main-
11 tained by a board, which would include among its
12 members persons meeting the requirements of sec-
13 tion 5(b), each board member conforming to the
14 conflict of interest restrictions set forth in section
15 5(d).

16 The consent of Congress is hereby given to interstate com-
17 pacts meeting the requirements referenced in section 5(h).

18 **SEC. 5. ESTABLISHMENT OF HORSERACING ANTI-DOPING**

19 **AND MEDICATION CONTROL AUTHORITY.**

20 (a) ESTABLISHMENT.—There is established the
21 Horseracing Anti-doping and Medication Control Author-
22 ity, a private, independent, self-regulatory, nonprofit cor-
23 poration with responsibility for developing and admin-
24 istering an anti-doping and medication control program

1 for covered horses, covered persons, and covered horse-
2 races.

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

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

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

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

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

15 (B) such that—

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

19 (ii) at least 1 member has significant
20 experience as an owner of covered horses
21 or is a person with expertise in the breed-
22 ing of race horses;

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

1 (iv) at least 1 member has a degree in
2 veterinary medicine and either has exper-
3 tise in equine veterinary practice with re-
4 gard to race horses or expertise in veteri-
5 nary research in matters affecting race
6 horses;

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

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

11 (c) SELECTION METHODOLOGY.—In selecting indi-
12 viduals under subsection (b), the United States Anti-
13 Doping Agency shall—

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

16 (2) endeavor to provide diversity among the
17 Board's membership between persons primarily in-
18 volved with the 3 breeds of racehorses, to the great-
19 est extent practicable and consistent with the stand-
20 ards for Board membership set forth in this section;

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

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

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

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

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

14 (2) an official or officer of any equine industry
15 representative or serve in any governance or policy-
16 making capacity for an equine industry representa-
17 tive; or

18 (3) an employee or have a business or commer-
19 cial relationship with any of the individuals or orga-
20 nizations described in paragraph (1) or (2).

21 (e) TERMS; VACANCIES.—

22 (1) STAGGERED TERMS.—The terms of mem-
23 bers of the Board shall be 3 years and shall be stag-
24 gered so that the terms of no more than 5 members
25 of the Board expire in any year.

1 (2) LIMITATION ON CONSECUTIVE TERMS.—
2 Members of the Board may serve for no more than
3 2 consecutive full terms.

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

22 (f) STANDING COMMITTEES.—

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

1 tives from horseracing industry constituencies, in-
2 cluding trainers, owners, the breed registry, veteri-
3 narians, regulators, race tracks, testing laboratories,
4 bettors, and jockeys.

5 (2) COMMITTEE ON DEVELOPMENT AND MAIN-
6 TENANCE OF THE HORSERACING ANTI-DOPING AND
7 MEDICATION CONTROL PROGRAM.—The Authority
8 shall establish a standing advisory committee, which
9 shall include medication and regulatory experts and
10 other representatives from horseracing industry con-
11 stituencies, to provide advice and guidance to the
12 Board on the development and maintenance of the
13 horseracing anti-doping and medication control pro-
14 gram.

15 (3) CHAIRPERSON OF COMMITTEE ON PER-
16 MITTED AND PROHIBITED SUBSTANCES AND METH-
17 ODS.—The Authority shall appoint the Board mem-
18 ber selected pursuant to subsection (b)(3)(B)(i) to
19 serve as the chairperson of the standing advisory
20 and technical committee on permitted and prohibited
21 substances and methods.

22 (4) DUTIES.—The committees established
23 under paragraph (1) shall assist the Authority in es-
24 tablishing and administering the horseracing anti-
25 doping and medication control program.

1 (5) COMMITTEE CONFLICTS OF INTEREST.—No
2 standing committee members, other than those who
3 are members of the Board of the Authority or em-
4 ployees of the Authority, shall be subject to the con-
5 flict of interest provisions set forth in section 5(d).

6 (g) ADMINISTRATION OF THE AUTHORITY.—

7 (1) ADMINISTRATIVE STRUCTURE.—The Au-
8 thority shall establish an administrative structure
9 and employ among its staff employees with sufficient
10 experience in and knowledge of equine-related and
11 anti-doping and medication control matters as ap-
12 propriate to carry out the responsibilities set forth in
13 this Act.

14 (2) EMPLOYEES GENERALLY.—The Board of
15 the Authority shall select the Authority’s chief exec-
16 utive officer. All Authority employees shall serve at
17 the pleasure of the Authority’s chief executive offi-
18 cer. All Authority employees shall be subject to the
19 conflict of interest revisions applicable to members
20 of the Board of the Authority as set forth in section
21 5(d).

22 (h) OVERSIGHT OF RULES PRESCRIBED BY THE AU-
23 THORITY.—

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

1 such rules as the Commission may prescribe, copies
2 of any proposed rule or change to any rule (collec-
3 tively “proposed rule”) of the Authority. Proposed
4 rule means the lists of permitted and prohibited sub-
5 stances; laboratory standards for accreditation and
6 protocols; schedules of sanctions for violations; proc-
7 esses and procedures for disciplinary hearings; and
8 formula and methodology for determining assess-
9 ments set out in section 12(d).

10 (2) PUBLICATION AND COMMENT.—

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

14 (B) APPROVAL REQUIRED.—No proposed
15 rule shall take effect unless it has been ap-
16 proved by the Commission.

17 (3) APPROVAL.—

18 (A) PERIOD.—The Commission shall ap-
19 prove or disapprove a proposed rule no later
20 than 45 days after the proposed rule is pub-
21 lished.

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

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

3 (i) OVERSIGHT OF FINAL DECISIONS OF THE AU-
4 THORITY.—

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

9 (2) REVIEW BY ADMINISTRATIVE LAW
10 JUDGE.—

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

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

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

3 (C) NATURE OF REVIEW.—In matters re-
4 viewed pursuant to this subsection, the adminis-
5 trative law judge shall conduct a hearing in a
6 manner as the Commission may specify by rule.
7 Such hearing shall conform to section 556 of
8 title 5, United States Code. The administrative
9 law judge shall determine whether—

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

14 (ii) such acts, practices, or omissions
15 are in violation of the Act or the anti-
16 doping and medication control rules ap-
17 proved by the Commission.

18 (D) DECISION BY ADMINISTRATIVE LAW
19 JUDGE.—The administrative law judge shall
20 render a decision within 60 days of the conclu-
21 sion of the hearing. Such decision may affirm,
22 reverse, modify, set aside, or remand for further
23 proceedings, in whole or in part, the final sanc-
24 tion of the Authority. Such decision shall con-
25 stitute the decision of the Commission without

1 further proceedings unless there is a timely no-
2 tice or application for review filed pursuant to
3 paragraph (3).

4 (3) REVIEW BY COMMISSION.—

5 (A) NOTICE OF REVIEW BY COMMISSION.—

6 The Commission may, on its own motion, re-
7 view any decision of the administrative law
8 judge rendered pursuant to subsection (i)(2) by
9 giving notice thereof to the Authority and inter-
10 ested parties within 30 days of the decision by
11 the administrative law judge.

12 (B) APPLICATION FOR REVIEW.—The Au-
13 thority or any person aggrieved by the decision
14 of an administrative law judge rendered pursu-
15 ant to subsection (i)(2) may petition the Com-
16 mission to review such decision by filing an ap-
17 plication for review within 30 days of the ren-
18 dering of such decision. If such application is
19 denied, the decision of the administrative law
20 judge shall constitute the decision of the Com-
21 mission without further proceedings. Whether
22 to grant review is within the Commission's dis-
23 cretion, provided however that the Commission
24 may grant review only where the application
25 therefor demonstrates:

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

3 (ii) the decision embodies an erro-
4 neous application of the anti-doping and
5 medication rules previously approved by
6 the Commission.

7 (C) NATURE OF REVIEW.—In matters re-
8 viewed pursuant to this subsection, the Com-
9 mission may affirm, reverse, modify, set aside
10 or remand for further proceedings, in whole or
11 in part, on the basis of the record before the
12 administrative law judge and briefs submitted
13 to the Commission. The Commission shall give
14 deference to a factual finding by the adminis-
15 trative law judge unless such finding is clearly
16 erroneous. The Commission shall review a con-
17 clusion of law by the administrative law judge
18 de novo. The Commission shall not permit the
19 taking of additional evidence except upon a
20 showing that such additional evidence is mate-
21 rial and that such evidence could not in the ex-
22 ercise of reasonable diligence have been adduced
23 previously.

24 (4) STAY OF PROCEEDINGS.—Review by an ad-
25 ministrative law judge or the Commission pursuant

1 to subsection (i) shall not operate as a stay of any
2 final sanction of the Authority unless the adminis-
3 trative law judge or Commission otherwise orders.

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

6 (a) PROGRAM REQUIRED.—Not later than 1 year
7 after the date on which initial selection and appointment
8 of the members of the board of the Authority is completed
9 under section 5 and after notice to and with appropriate
10 opportunity for comment from equine industry representa-
11 tives and the public, the Authority shall develop and ad-
12 minister the horseracing anti-doping and medication con-
13 trol program for covered horses, covered persons, and cov-
14 ered horseraces. To the extent practicable, such program
15 shall take into account the unique characteristics of each
16 separate breed of horse.

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

20 (1) A uniform set of anti-doping and medica-
21 tion control rules.

22 (2) Lists of permitted and prohibited sub-
23 stances (which may include, without limitation,
24 drugs, medications, naturally occurring substances

1 and synthetically occurring substances) and meth-
2 ods.

3 (3) A prohibition upon the administration of
4 any prohibited or otherwise permitted substance to
5 a covered horse within 24 hours of its next racing
6 start, which shall be effective not later than January
7 1, 2019.

8 (4) A process for sample collection.

9 (5) Programs for in-competition and out-of-
10 competition testing (including no-advance-notice
11 testing and mandatory reporting of each horse's lo-
12 cation for testing).

13 (6) Testing procedures, standards, and proto-
14 cols for both in-competition and out-of-competition
15 testing.

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

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

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

24 (10) A schedule of sanctions for violations.

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

3 (12) Management of violation results.

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

6 (c) APPLICABILITY TO COVERED HORSES AND PER-
7 SONS.—

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

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

19 (d) LIMITATION OF AUTHORITY.—

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

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

7 (3) PRESERVATION OF STATE RACING COMMIS-
8 SION AUTHORITY OVER PREVIOUS MATTERS.—State
9 racing commissions shall retain authority over mat-
10 ters described in paragraph (2) until the final reso-
11 lution of any resulting charges.

12 (e) CONSIDERATIONS.—The horseracing anti-doping
13 and medication control program shall take into consider-
14 ation international anti-doping and medication control
15 standards, including the World Anti-Doping Code and the
16 Principles of Veterinary Medical Ethics of the American
17 Veterinary Medical Association, that could be applicable
18 to the horseracing anti-doping and medication control pro-
19 gram.

20 (f) UPDATES.—The Authority shall update the horse-
21 racing anti-doping and medication control program from
22 time to time.

23 (g) LISTS OF PROHIBITED SUBSTANCES AND METH-
24 ODS.—

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

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

10 (A) class 1, 2, 3, and 4 drugs, medications,
11 and substances in the Uniform Classification
12 Guidelines for Foreign Substances of the Asso-
13 ciation of Racing Commissioners International,
14 Version 14.0, revised January 2019; or

15 (B) the World Anti-Doping Code Inter-
16 national Standard Prohibited List, January
17 2019,

18 unless and to the extent that such a substance or
19 method described in subparagraph (A) or (B) is con-
20 tained on the list of permitted substances and meth-
21 ods identified on the Association of Racing Commis-
22 sioners International Controlled Therapeutic Medica-
23 tion Schedule for Horses, Version 4.1, revised Janu-
24 ary 2019.

25 (3) DEADLINES FOR LISTS.—

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

9 (B) EFFECTIVE.—The lists described in
10 subparagraph (A) shall take effect on the date
11 that is 1 year after the date on which initial se-
12 lection and appointment of the members of the
13 board of the Authority is completed under sec-
14 tion 5.

15 (4) PERIODIC REVIEW.—

16 (A) IN GENERAL.—The inclusion of per-
17 mitted or prohibited substances or methods on
18 the lists shall be subject to periodic review by
19 the Authority, which shall be subject to review
20 by the Commission under section 4, for modi-
21 fication, substitution, addition to, or deletion
22 from the lists.

23 (B) ESTABLISHMENT OF NOTICE, CON-
24 SULTATION, AND COMMENT PROCESS.—The Au-
25 thority shall establish a notice, consultation,

1 and comment process for the periodic reviews
2 carried out under subparagraph (A) that in-
3 volves industry representatives and the public.

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

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

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

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

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

22 (C) Strict liability for the use of a per-
23 mitted method in violation of the applicable lim-
24 itations established within the horseracing and
25 medication control program.

1 (D) Attempted use of a prohibited sub-
2 stance or method.

3 (E) Possession of any prohibited substance
4 or method.

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

7 (G) Administration or attempted adminis-
8 tration of any prohibited substance or method.

9 (H) Refusing or failing without compelling
10 justification to submit a horse for sample collec-
11 tion.

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

14 (J) Trafficking or attempted trafficking in
15 any prohibited substance or method and com-
16 plicity in any anti-doping and medication con-
17 trol rule violation.

18 (i) TESTING LABORATORIES.—

19 (1) IN GENERAL.—Not later than 1 year after
20 the date on which initial selection and appointment
21 of the members of the board of the Authority is
22 completed under section 5, the Authority shall estab-
23 lish by rule standards of accreditation for labora-
24 tories involved in the testing of samples taken from
25 covered horses, the process for achieving and main-

1 taining accreditation, and the standards and proto-
2 cols for testing of samples.

3 (2) EXTENSION OF PROVISIONAL OR INTERIM
4 ACCREDITATION.—The Authority may, by rule, ex-
5 tend provisional or interim accreditation to labora-
6 tories accredited by the Racing Medication and Test-
7 ing Consortium, Inc.

8 (3) SELECTION OF LABORATORIES BY
9 STATES.—Each State racing commission, if it so
10 elects, shall determine the laboratory to be used in
11 testing samples taken within its jurisdiction, pro-
12 vided that the laboratory selected has been accred-
13 ited by, and complies with the testing protocols and
14 standards established by, the Authority.

15 (4) SELECTION OF LABORATORIES BY THE AU-
16 THORITY.—If a State racing commission does not
17 elect to determine the laboratory to be used in test-
18 ing samples taken within its jurisdiction, the Au-
19 thority shall by rule, make the selection.

20 (j) RESULTS MANAGEMENT AND DISCIPLINARY
21 PROCESS.—

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

1 tice to and with appropriate opportunity for com-
2 ment from equine industry representatives and the
3 public, shall promulgate rules for anti-doping and
4 medication control results management and the dis-
5 ciplinary process for anti-doping and medication con-
6 trol rule violation results management, including the
7 following:

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

10 (B) Hearing procedures.

11 (C) 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 (2) DUE PROCESS.—The rules promulgated
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 anti-doping and medication control rule viola-
22 tion and the possible sanctions for such violation.

23 (k) SANCTIONS.—

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

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

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

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

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

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

13 (3) SEVERITY.—The rules promulgated under
14 paragraph (1) shall impose sanctions up to and in-
15 cluding lifetime bans from horseracing, disgorgement
16 of purses, monetary fines and penalties and changes
17 to the order of finish in covered races. The sanc-
18 tioning rules shall also include opportunities for
19 anti-doping and medication control rule violators to
20 reduce the otherwise applicable sanctions generally
21 comparable to those opportunities afforded by the
22 United States Anti-Doping Agency’s Protocol for
23 Olympic Movement Testing.

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

1 horseracing anti-doping and medication control program,
2 whenever it shall appear to the Authority that one has
3 engaged, is engaged or is about to engage in acts or prac-
4 tices constituting a violation of any provision of this Act
5 or the horseracing anti-doping and medication control pro-
6 gram, the Authority may commence a civil action against
7 such covered person or any racetrack in the proper district
8 court of the United States, the United States District
9 Court for the District of Columbia, or the United States
10 courts of any territory or other place subject to the juris-
11 diction of the United States, to enjoin such acts or prac-
12 tices, to enforce any fines, penalties or other sanctions im-
13 posed in accordance with the provisions of the anti-doping
14 and medication control program and for all other relief
15 to which the Authority may be entitled. Upon a proper
16 showing, a permanent or temporary injunction or restrain-
17 ing order shall be granted without bond.

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

20 (1) ASSESSMENTS.—Following the third anni-
21 versary of the date on which the anti-doping and
22 medication control program identified in section 6
23 takes effect and not less frequently than once every
24 4 years thereafter, the Comptroller General of the
25 United States shall review and analyze results of the

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

4 (2) GATHERING ASSESSMENTS FROM INDUSTRY
5 REPRESENTATIVES.—In conjunction with review and
6 analysis required by paragraph (1), the Comptroller
7 General may invite persons representing the signifi-
8 cant facets of the horseracing industry, including as-
9 sociations and individuals representing racetracks,
10 breeders, owners, trainers, veterinarians, jockeys,
11 bettors, equine researchers, and organizations dedi-
12 cated to the welfare and safety of covered horses, to
13 collectively meet with and provide testimony to the
14 Comptroller General for the purpose of gathering
15 further assessments on the performance and effec-
16 tiveness of the Authority and the anti-doping and
17 medication control program.

18 (3) REPORTS.—Upon the conclusion of a review
19 and analysis under paragraph (1), the Comptroller
20 General shall submit to Congress a report on such
21 review and analysis with an assessment of the per-
22 formance of the Authority and the Commission con-
23 cerning their effectiveness as an anti-doping and
24 medication control organization and the efficiency of

1 the horseracing anti-doping and medication control
2 program.

3 **SEC. 7. UNFAIR OR DECEPTIVE ACTS OR PRACTICES.**

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

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

11 (1) a bisphosphonate; or

12 (2) any other substance that the Authority de-
13 termines has a long-term degrading effect on the
14 soundness of the horse; and

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

17 **SEC. 8. OTHER LAWS UNAFFECTED.**

18 This Act shall not be construed to modify, impair,
19 or restrict the operation or effectiveness of State or Fed-
20 eral statutes and regulations directed at—

21 (1) any of the consents, approvals, or agree-
22 ments required by the Interstate Horseracing Act of
23 1978;

24 (2) criminal conduct by covered persons and
25 others;

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

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

6 **SEC. 9. STATE DELEGATION; DUTY OF COOPERATION.**

7 (a) STATE DELEGATION.—

8 (1) IN GENERAL.—The Authority may enter
9 into agreements with one or more State racing com-
10 missions to implement within their respective juris-
11 dictions any of the components of the horseracing
12 anti-doping and medication control program estab-
13 lished by the Authority if the Authority determines
14 that a particular State racing commission will be
15 able to implement a component of the horseracing
16 anti-doping and medication control program in ac-
17 cordance with the standards and requirements estab-
18 lished by the Authority.

19 (2) DURATION OF AGREEMENTS.—Any agree-
20 ment entered into under paragraph (1) shall remain
21 in effect as long as the Authority determines the ap-
22 plicable racing commission to be implementing the
23 components of the medication regulation program
24 covered by the agreement in compliance with the

1 standards and requirements established by the Au-
2 thority.

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

10 **SEC. 10. RULES OF CONSTRUCTION.**

11 The Authority shall not have the power to impose
12 criminal sanctions and shall not be considered nor con-
13 strued to be an agent of, or an actor on behalf of, the
14 United States Government or any State.

15 **SEC. 11. EFFECTIVE DATE.**

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

21 (b) TRANSITION.—The Authority and State regu-
22 latory authorities shall work cooperatively to develop tran-
23 sition rules with respect to doping conduct, sanctions, and
24 investigations arising prior to the effective date of the
25 horseracing anti-doping and medication control program.

1 **SEC. 12. FUNDING.**

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

4 (1) the appropriation of any amount to the Au-
5 thority; or

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

8 (b) **INITIAL FUNDING.**—

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

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

17 (3) **ANNUAL CALCULATION OF AMOUNTS RE-**
18 **QUIRED.**—

19 (A) **IN GENERAL.**—Not later than the date
20 that is 90 days before the date set forth in sec-
21 tion 11(a) and not later than November 1 of
22 each year thereafter, the Authority shall deter-
23 mine and provide to each State racing commis-
24 sion the estimated amount required per racing
25 starter to fund the horseracing anti-doping and
26 medication control program for the coming year

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

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

8 (C) REQUIREMENTS REGARDING BUDGETS
9 OF AUTHORITY.—The Authority's initial budget
10 shall require the approval of $\frac{2}{3}$ of its board and
11 any subsequent budget that exceeds the pre-
12 ceding year's budget by more than 5 percent
13 shall also require the approval of $\frac{2}{3}$ of the
14 board of the Authority.

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

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

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

1 ing commission shall be required to remit fees pur-
2 suant to this subsection.

3 (3) WITHDRAWAL OF ELECTION.—A State rac-
4 ing commission may withdraw its election after pro-
5 viding notice to the Authority of its intent to cease
6 remitting fees pursuant to this subsection not later
7 than 1 year before ceasing such remitting.

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

14 (5) DETERMINATIONS OF METHODS.—Each
15 State racing commission shall determine, subject to
16 the applicable laws and regulations of the State, the
17 method by which the requisite amount shall be allo-
18 cated, assessed, and collected.

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

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

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

10 (2) ALLOCATION.—The Authority shall equi-
11 tably allocate that amount calculated under para-
12 graph (1), among those involved in covered
13 horseraces pursuant to such rules as the Authority
14 may promulgate, subject to review by the Commis-
15 sion under section 4.

16 (3) ASSESSMENT.—The Authority shall assess a
17 fee equal to the allocation made under paragraph (2)
18 and shall collect such fee according to such rules as
19 the Authority may promulgate, subject to such Com-
20 mission review.

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

- 1 son a fee or tax relating to anti-doping and medica-
- 2 tion control matters for covered horseraces.

○