



# The Committee on Energy and Commerce

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## Memorandum

November 19, 2013

To: Members of the Subcommittee on Commerce, Manufacturing, and Trade

From: Majority Committee Staff

Re: Hearing on H.R. 2012, Horseracing Integrity and Safety Act of 2013

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At 10:00 a.m. on Thursday, November 21, 2013, in 2322 Rayburn House Office Building, the Subcommittee on Commerce, Manufacturing, and Trade will convene a hearing on H.R. 2012, Horseracing Integrity and Safety Act of 2013, a bill to improve the integrity and safety of interstate horseracing. Witnesses are by invitation only.

### **I. Witnesses**

*Jesse Overton*, Chairman, SkyLearn, LLC and former Chairman, Minnesota Racing Commission;

*Phil Hanrahan*, Chief Executive Officer, National Horsemen's Benevolent & Protective Association;

*Lawrence Soma, VMD*, Professor Emeritus of Anesthesia and Clinical Pharmacology, University of Pennsylvania School of Veterinary Medicine;

*Travis Tygart*, Chief Executive Officer, U.S. Anti-Doping Agency;

*Sheila Lyons, DVM*, and,

*Wayne Pacelle*, Chief Executive Officer and President, Humane Society of the United States.

### **II. Background**

Just over 61,000 horses participated in 45,000 races in the United States in 2012 with purses totaling over \$1.1 billion.<sup>1,2,3</sup> The total pari-mutuel handle, or the sum of all bets, totaled \$10.9 billion.<sup>4</sup> In 2004, a study performed by Deloitte and commissioned by The Jockey Club estimated the impact of the thoroughbred industry on the U.S. GDP at \$101.5 billion supporting 1.4 million full time jobs.<sup>5</sup> Horseracing is big business and, as with any competitive sport, the temptation to gain an advantage over one's competitors exists. But the risks in this sport – to

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<sup>1</sup> <http://www.jockeyclub.com/factbook.asp?section=6>.

<sup>2</sup> <http://www.jockeyclub.com/factbook.asp?section=7>.

<sup>3</sup> <http://www.jockeyclub.com/factbook.asp?section=9>.

<sup>4</sup> <http://www.jockeyclub.com/factbook.asp?section=8>.

<sup>5</sup> <http://www.jockeyclub.com/factbook.asp?section=18>.

both the animal and its jockey – are great. When a horse falls so does its rider, and according to a California study, jockeys who fall as a result of catastrophic injury or death of a horse are at greater risk of serious injury, including paralysis and death.<sup>6</sup>

In 2012, a New York Times investigation concluded that the industry is “mired in a culture of drugs and lax regulation and a fatal breakdown rate that remains far worse than in most of the world,” resulting in an average 24 equine deaths per week. Critics argue the problem is compounded by the lack of a national organization responsible for developing common rules and procedures.<sup>7</sup> There are 38 State racing commissions with, up until recently, 38 different sets of regulations on race-day drugs and testing. Further, the States have different attitudes towards cheating through the use of performance-enhancing drugs (PEDs). According to the New York Times, from 2009 to 2012, trainers were caught illegally doping horses at U.S. tracks 3,800 times – a number that most likely does not accurately reflect the scope of the problem because not all horses are tested.<sup>8</sup> The industry, however, is slowly moving toward the uniform standards developed by the Racing Medication and Testing Consortium;<sup>9</sup> 9 States have adopted the standards thus far, with another 10 States considering the standards.<sup>10</sup>

While the physical risks to the animal and its rider are far more severe, the use of PEDs undermines the integrity of the thoroughbred racing industry as a whole, threatening the pari-mutuel industry at large. In 2008, the 3-year old thoroughbred Eight Belles collapsed on national television after crossing the finishing line at the Kentucky Derby raising public awareness of the problem. The horse suffered from two fractured ankles and the trauma was so severe that she was euthanized on the track.<sup>11</sup> A recent poll by the Jockey Club found that four in five bettors consider the use of PEDs so pervasive that they take into account the use of such drugs when handicapping races.<sup>12</sup> Additionally, 76 percent of the poll’s respondents said they avoid betting at specific tracks or in specific States, and the majority said they bet less overall because of the incidence of illegal drug use.<sup>13</sup>

In 1978, Congress passed the Interstate Horseracing Act setting forth the conditions under which interstate off-track wagers may be accepted, an activity that would otherwise be prohibited by the Interstate Wire Act of 1961 (more commonly known as the “Federal Wire Act”). H.R. 2012 would amend the 1978 Act by, in effect, banning certain performance-enhancing drugs, requiring an independent testing program, establishing penalties, and prohibiting the acceptance of interstate off-track wagers unless the tracks are in compliance with such limitations.

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<sup>6</sup> <http://ojs.sagepub.com/content/1/1/2325967113492625.full>.

<sup>7</sup> <http://cs.bloodhorse.com/blogs/industry-voices/archive/2012/07/17/time-to-rewrite-the-rules.aspx>.

<sup>8</sup> <http://www.nytimes.com/2012/03/25/us/death-and-disarray-at-americas-racetracks.html>.

<sup>9</sup> [http://www.rmtcnet.com/content\\_goals.asp](http://www.rmtcnet.com/content_goals.asp) The Racing Medication and Testing Consortium (RMTTC) formed in 2001 with a goal of developing national policies that would ensure fairness in horseracing and protect the health and welfare of the horses and race participants.

<sup>10</sup> <http://www.ntra.com/en/news-media/press-releases/2013/11/11/movement-to-adopt-uniform-rules-continues-to-gain-support/>.

<sup>11</sup> <http://sports.espn.go.com/sports/horse/news/story?id=3380081>.

<sup>12</sup> <http://www.nytimes.com/2013/08/12/sports/as-concerns-over-drugs-mount-the-jockey-club-says-it-will-pay-for-testing.html>.

<sup>13</sup> [http://www.jockeyclub.com/roundtable\\_13.asp?section=10](http://www.jockeyclub.com/roundtable_13.asp?section=10).

### **III. Summary of H.R. 2012**

The bill designates the United States Anti-Doping Agency (USADA) as the independent anti-doping organization with responsibility for ensuring the integrity and safety of those horseraces that are the subject of interstate off-track wagers.

- The organization is charged with developing within one year of enactment:
  - Rules regarding which substances, methods, or treatments may not be administered to horses participating in a race,
  - Rules regarding which substances, methods, or treatments may be administered to horses participating in a race and the window of time (but no less than 24 hours) within which such substances, methods, or treatments may be administered prior to a race,
  - Education programs to notify stakeholders of the rules,
  - Testing methods to identify the use of substances, methods, or treatments, and
  - The process of adjudicating violations of the rules to prohibit participation in a race;
- Grants the organization the authority to exclude persons from participating in a horserace who the organization or a State racing commission determines:
  - Violated the organization's ban on impermissible substances,
  - Violated three or more times the organization's rules on permissible substances, or
  - Is suspended by any State racing commission;
- Grants the organization the authority to suspend race exclusion based on cooperation in identifying other violations of the organization's rules;
- Phases out use of Furosemide (commonly known under the brand name Lasix), allowing continued use during the 2-year period following enactment if the horse is 3 years or older, the use complies with the Association of Racing Commissioners International, Inc. guidelines, and is administered by a veterinarian; and
- Mandates that an association may conduct horseraces subject to interstate off-track betting only after entering an agreement with the organization regarding compliance with the organization's rules and off-setting costs of administration.