

Statement by
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Vice Chairman, The Jockey Club
House Energy & Commerce Subcommittee on Consumer Protection & Commerce
HR 1754 Horseracing Integrity Act
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Good Morning. Thank you Chair Schakowsky, Congresswoman McMorris Rogers, and Members of the Committee for inviting me to testify today. My name is Bill Lear, and I am Vice Chairman of The Jockey Club and a Trustee of Keeneland Association.

The goals of the Horseracing Integrity Act are simple and straightforward. We want the cleanest possible sport, we want the safest possible sport, and we want an even playing field.

Members of the Committee, everyone in horseracing has to recognize that we are no longer debating solely within the confines of our industry. Our audience now, our jury of our peers, is the public at large and the news outlets that determine what they will see and hear.

It is the universal public sentiment and the universally accepted public policy in the United States that performance-enhancing drugs have no place in sport. We have to fix our medication regulation system. And when I say that in this context, I always put "system" in quotes because what we have is no system at all. We have a patchwork, and a poor patchwork, within all of the different states. We have understood this problem for some time, and we have tried to address this problem internally — believe me, federal legislation is not the choice of first resort for us.

We tried with an interstate compact and the leaders of the industry, including most of the organizations you would love to see around the table working together, The Jockey Club, the American Quarter Horse Association, the United States Trotting Association, RCI, the New York State Racing and Wagering Board, the NTRA, Keeneland, the Kentucky Horse Racing Commission, the National, believe it or not, HBPA, worked together in 2009 and 2010 to create the Interstate Racing and Wagering Compact. Kentucky passed it. New York passed it in one house of the legislature. Virginia tried to pass it, but couldn't. So that compact died for lack of a second. Now they're trying again in the Mid-Atlantic Region and I commend them for the effort, but I don't hold out much hope.

The Achilles heel of interstate compacts is the set of conditions typically included to get them passed in the first place, such as (i) allowing member states to opt out of rules they don't like, or (ii) allowing states to pull out of the compact at any time for any reason, or (iii) unrealistic super majority voting requirements. The Mid-Atlantic compact has an 80 percent rule. That means one or two states have an effective veto.

Members of the Committee, we tried the interstate compact. We tried within the industry under National Uniform Medication Program, or NUMP. Six years ago, NUMP was introduced

with four components and then added a fifth one for out-of-competition testing. Adoption throughout the states has been slow, erratic, and even now, is incomplete. And that's just the initial elements. Every time there's a significant change to NUMP, that change has to run the gauntlet of 30-some racing states. Each one with its own set of protocols, processes, administrative rules and regulations. It took six years in California to get third-party Lasix. And there are lots of other examples of that sort of thing.

So where are we with our current system? The unfortunate reality is that we are pretty much in the same place that we were four years ago.

Do we have the same medication rules in place in every racing jurisdiction in the United States or even in all of the major racing states? No.

Do we have the same testing rules and procedures in place in every one of those racing jurisdictions, including best practices out-of-competition testing? No.

Do we have the same procedures and standards in place for laboratories and the same contractual arrangements? And that's really important because the price people are paying for tests varies across the board. And are all the labs accredited to the same standards as the best labs in other countries? No, no, and no.

Do we have the same processes for investigation, prosecution, and adjudication of rules violations in all of the racing jurisdictions? Again, no.

Do we have the same system of penalties in place in every racing jurisdiction and is there consistency in the application of those penalties? Meaning does the same offense draw the same penalty in California as it does in New York as it does in Kentucky and Florida? No.

Do we have a system in place that can react quickly and uniformly throughout the nation to address the latest new drug that comes along and is used by those who would cheat to try to beat the system? No.

Do we have a medication regulatory authority in place that can speak with one voice to the authorities of other nations when the need to do so arises? Again, no.

It's not enough to say that, well, the majority of racing starts occur in states that have the same list of permitted and prohibited medications or the same multiple violation rules. That's not national uniformity. If they don't test the same, if they don't have the same lab contracts, if they don't investigate as thoroughly, if they don't do all those other things, it's not uniformity and it's not sufficient rigor in all probability.

Members of the Committee, we could be uniform and weak and that would be no better than we are today.

Passage of the Horseracing Integrity Act would address all of these deficiencies by combining the world's best anti-doping expertise with deep expertise and experience from within our industry, both on the governing board and in advisory committees. In a private, I want to underline that, a private, nonprofit entity under the umbrella of the Federal Trade Commission. The FTC has among its jurisdictional mandates, free, open and fair competition and consumer protection, which is a perfect fit for what we're trying to accomplish.

The legislation also has a mandate to provide due process guarantees to everybody, both in rules promulgation and in adjudications, the ability to react quickly, forcefully, and on a nationwide scale to address the next bad thing that comes up in medication. And we all know that more of those are coming.

It also provides an avenue for partnering with state regulators through contract to delegate the implementation of key parts of this legislative program, but all with the same processes, protocols, and rules.

And perhaps most importantly, the legislation is founded upon the unremarkable proposition that the regulatory authority should be controlled by independent persons with deep knowledge of the subject matter, both anti-doping and horse racing, but with no conflicts of interest and nothing to gain or lose personally as a result of the regulations adopted.

Members of the Committee, no case better illustrates the need for an independent body than the unreported positive drug test by the super horse, Justify. In 2018, the California Horse Racing Commission, one of the best racing commissions in the country, decided behind closed doors not to disclose and to dismiss a positive drug test for Justify. I am not going to argue whether the overage in question would have made a difference in the race, or how the horse got this drug in its system. What I can say is that this board, with some members with financial ties to the industry, and the then-Chairman of the board having had a horse with the same trainer as Justify, decided to suspend their own processes. I ask, how is that going to instill faith in the system?

We are facing an existential threat. If our response to that threat is or even appears to be business as usual, we're going to lose. We're going to go the way of the circus and dog racing in Florida.

We all know that we need to change what we're doing. And the battle we're waging for the hearts and minds of the public, passage of meaningful reforms, will be critical. The HIA represents true reform and because of that, as you've seen, it's supported not just by industry key players like the Breeders' Cup, TOBA, KTA, Keeneland, WHOA, The Jockey Club, but also, by the top animal welfare organizations.

Many people in our industry believe that we are staring at the abyss. The future of Thoroughbred racing and breeding is at stake. We have to do more to protect our athletes. We have to do more to protect our horses and to get the cheaters and the abusers out of our sport.

There is a path forward and the Horseracing Integrity Act represents that path. It can put us on the road to not just recovery, but prosperity, if we will all join in. Thank you.