

June 20, 2018

TO: Members, Subcommittee on Digital Commerce and Consumer Protection

FROM: Committee Majority Staff

RE: Hearing entitled “Legislative Hearing on H.R. 2651, the Horseracing Integrity Act of 2017.”

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## **I. INTRODUCTION**

The Subcommittee on Digital Commerce and Consumer Protection will hold a hearing on Friday, June 22, 2018, at 9:00 a.m. in 2123 Rayburn House Office Building. The hearing is entitled “Legislative Hearing on H.R. 2651, the Horseracing Integrity Act of 2017.”

## **II. WITNESSES**

### **Panel I:**

- Andy Barr, Member, U.S. House of Representatives (KY-06); and
- Paul Tonko, Member, U.S. House of Representatives (NY-20).

### **Panel II:**

- Kitty Block, Acting President and CEO, The Humane Society of the United States;
- Alan M. Foreman, Chairman and CEO, Thoroughbred Horsemen’s Association, Inc.;
- Craig Fravel, CEO, The Breeders’ Cup;
- Eric Hamelback, CEO, National Horsemen’s Benevolent and Protective Association;
- Stuart S. Janney III, Chairman, The Jockey Club; and,
- Ed Martin, President, Association of Racing Commissioners International.

## **III. BACKGROUND**

There are an estimated 7.2 million horses in the U.S., with 3.1 million participating in recreation, 1.2 million in showing, 500,000 used for work, and 1.2 million in horse racing.<sup>1</sup>

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<sup>1</sup> <http://www.horsecouncil.org/economics/>

There are approximately 2 million owners in the U.S. and a total of roughly 7.1 million Americans involved in the industry.<sup>2</sup> In 2017, approximately 51,000 horses participated in about 41,000 races in the United States,<sup>3</sup> and the purse of these races totaled about \$1.1 billion.<sup>4</sup> According to a recent study by the American Horse Council, the equine industry in the U.S. generates approximately \$122 billion in total economic impact and provides a total employment impact of 1.74 million jobs and roughly \$79 billion in total salaries, wages, and benefits.<sup>5</sup>

Horsing is a state sanctioned, state regulated industry. Currently, there is debate over whether racing jurisdictions are inconsistent with respect to regulation of medication.<sup>6</sup> Racing commissions, horsemen's organizations, racetracks, and the like have undergone a process to create uniform medication and testing programs to meet industry needs.<sup>7</sup> The program, which has been or is being adopted by all current racing jurisdictions, which is known as the National Uniform Medication Program (NUMP) consists of four major components: (1) a Controlled Therapeutic Medication Schedule; (2) third-party administration of Lasix; (3) a multiple medication violation penalty system; and (4) a testing laboratory accreditation program.<sup>8</sup> To date, the status of adoption of NUMP in thoroughbred states is as follows:

- All jurisdictions have adopted at least one component of the NUMP;<sup>9</sup>
- States representing more than 96 percent of the U.S. pari-mutuel handle on thoroughbred races are conducting testing at an accredited lab;<sup>10</sup>
- The Controlled Therapeutic Medication Schedule has been implemented in thoroughbred states representing 97 percent of the U.S. pari-mutuel handle;<sup>11</sup>
- Third-party Lasix administration procedures have been implemented in thoroughbred states representing 87 percent of the U.S. pari-mutuel handle;<sup>12</sup> and,
- Thoroughbred states representing 40 percent of the U.S. pari-mutuel handle and 39 percent of thoroughbred races have implemented the Multiple Medication Violation Penalty System.<sup>13</sup>

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<sup>2</sup> <https://www.ridewiththequo.com/blog/the-horse-industry-by-the-numbers>

<sup>3</sup> <http://www.jockeyclub.com/default.asp?section=FB&area=10>

<sup>4</sup> <http://www.jockeyclub.com/default.asp?section=FB&area=7>

<sup>5</sup> <https://www.bloodhorse.com/horse-racing/articles/226289/ahc-horses-generate-122-billion-in-economic-impact>

<sup>6</sup> <http://www.kentucky.com/news/local/article208060184.html>; see also <https://www.kentucky.com/opinion/oped/article212864729.html>

<sup>7</sup> <http://tharacing.com/medication/>

<sup>8</sup> *Id.*

<sup>9</sup> <http://tharacing.com/medication/national-uniform-medication-progress/>

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

#### **IV. LEGISLATION**

*H.R. 2651, The Horseracing Integrity Act of 2017.*

##### Section 1. Short Title.

Section 1 provides that the Act may be cited as the “Horseracing Integrity Act of 2017.”

##### Section 2. Findings.

Section 2 provides Congressional findings that recognizes the substantial relationship horseracing has to interstate commerce; that the uniform adoption of national anti-doping and medication control standards will promote interstate commerce, encourage fair competition, assure full and fair disclosure of information to purchasers of breeding stock; that the use of therapeutic medications must place the health and welfare of the horse as a priority; that for humans, Congress has demonstrated a commitment to fair competition; that in the context of Olympic sports, Congress recognizes the U.S. Anti-Doping Agency as an independent organization possessing high-level of expertise and credibility; that Congress supports the establishment of an independent anti-doping and medication control organization; and that horseracing warrants congressional action.

##### Section 3. Definitions.

Section 3 provides that the Act applies to Thoroughbreds, Quarter Horses, Standardbreds, and races that have a substantial relation to interstate commerce. Section 3 provides that the Act also applies to trainers, owners, veterinarians, and their agents who work with Thoroughbreds, Quarter Horses and Standardbreds.

##### Section 4. Jurisdiction for Horseracing Anti-Doping and Medication Control Matters.

Section 4 provides that the Independent Horseracing Anti-Doping and Medication Control Authority (Authority) shall exercise authority over all horseracing anti-doping and medication control matters consistent with the provisions of this Act. Section 4 provides that the Authority shall be established as a private, independent, self-regulatory, non-profit corporation with responsibility for developing and administering an anti-doping and medication control program. Section 4 provides that the Authority will terminate if at any time after the expiration of five years following the effectiveness of the anti-doping program an interstate compact is established including 75 percent of the states in which races occurred during the preceding year.

##### Section 5. Establishment of Horseracing Anti-Doping and Medication Control Authority.

Section 5 creates the Authority that will consist of thirteen board members who are identified as the CEO of the U.S. Anti-Doping Agency (USADA), six individuals from USADA, and six additional individuals who are selected by USADA based on criteria set forth pursuant to this section. Section 5 provides that the terms of the members will be three staggered years so

that no more than five members expire in any given year and that no member may serve more than two consecutive full terms. Section 5 provides that the Authority shall establish a standing advisory committee to assist in administering the horseracing anti-doping and medication control program. Section 5 also requires notice and public comment on proposed rules. Pursuant to Section 5, the Federal Trade Commission will oversee the Authority.

#### Section 6. Horseracing Anti-Doping and Medication Control Program.

Section 6 requires the Authority to develop and administer the horseracing anti-doping and medication control program within one year after standing up. The program must include a uniform set of anti-doping rules, lists of permitted and prohibited substances and methods, a process for sample collection and analysis, in-and-out of competition testing programs, investigations, lab accreditation, hearings and sanctions for violations. Section 6 prohibits the administration of any prohibited or otherwise permitted substance within 24 hours of a horserace. Section 6 also requires the Authority to develop, maintain, and publish lists of permitted and prohibited substances and methods that must be made public prior to their enforcement.

#### Section 7. Other Laws Unaffected.

Section 7 provides that this Act does not modify, impair, or restrict the operation or effectiveness of state or federal statutes and regulations with respect to the Interstate Horseracing Act, criminal conduct by those involved in horseracing, horseracing matters unrelated to anti-doping and medication control, and the use of medication in human participants.

#### Section 8. State Delegation; Duty of Cooperation.

Section 8 allows for delegation by agreement with racing commissions to implement the anti-doping program.

#### Section 9. Rules of Construction.

Section 9 provides that the Authority does not have the power to impose criminal sanctions and shall not be considered an agent of the United States Government or any state.

#### Section 10. Effective Date.

Section 10 provides that the horseracing anti-doping and medication control program shall take effect not later than one year after the date on which initial selection and appointment of the members of the board of the Authority is completed pursuant to section 5.

#### Section 11. Funding.

Section 11 provides that initial funding to establish the Authority shall be provided by loans obtained by and donations made to the Authority. Section 11 provides that not later than the date that is 90 days before the date set forth in section 10, the Authority shall determine and

provide to each state racing commission the estimated amount required per racing starter to fund the horseracing anti-doping and medication control program.

## **V. ISSUES**

The following issues may be examined at the hearing:

- The current regulatory framework governing horseracing and the current state of regulation with respect to medication usage.
- Perspectives on H.R. 2651, the Horseracing Integrity Act of 2017, and the impact it will have on the horseracing industry.

## **VI. STAFF CONTACTS**

If you have any questions regarding this hearing, please contact Melissa Froelich or Bijan Koohmaraie of the Committee staff at (202) 225-2927.