

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1754
OFFERED BY MR. TONKO**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Horseracing Integrity
3 and Safety Act of 2020”.

4 SEC. 2. DEFINITIONS.

5 In this Act the following definitions apply:

6 (1) **AUTHORITY.**—The term “Authority” means
7 the Horseracing Integrity and Safety Authority des-
8 ignated by section 3(a).

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

11 (3) **COVERED HORSE.**—The term “covered
12 horse” means any Thoroughbred horse, or any other
13 horse made subject to this Act by election of the ap-
14 plicable State racing commission or the breed gov-
15 erning organization for such horse under section
16 5(k), during the period—

17 (A) beginning on the date of the horse’s
18 first timed and reported workout at a racetrack

1 that participates in covered horseraces or at a
2 training facility; and

3 (B) ending on the date on which the Au-
4 thority receives written notice that the horse
5 has been retired.

6 (4) COVERED HORSERACE.—The term “covered
7 horserace” means any horserace involving covered
8 horses that has a substantial relation to interstate
9 commerce, including any Thoroughbred horserace
10 that is the subject of interstate off-track or advance
11 deposit wagers.

12 (5) COVERED PERSONS.—The term “covered
13 persons” means all trainers, owners, breeders, jock-
14 eys, racetracks, veterinarians, persons (legal and
15 natural) licensed by a State racing commission and
16 the agents, assigns, and employees of such persons
17 and other horse support personnel who are engaged
18 in the care, training, or racing of covered horses.

19 (6) EQUINE CONSTITUENCIES.—The term
20 “equine constituencies” means, collectively, owners
21 and breeders, trainers, racetracks, veterinarians,
22 State racing commissions, and jockeys who are en-
23 gaged in the care, training, or racing of covered
24 horses.

1 (7) EQUINE INDUSTRY REPRESENTATIVE.—The
2 term “equine industry representative” means an or-
3 ganization regularly and significantly engaged in the
4 equine industry, including organizations that rep-
5 resent the interests of, and whose membership con-
6 sists of, owners and breeders, trainers, racetracks,
7 veterinarians, State racing commissions, and jock-
8 eys.

9 (8) HORSERACING ANTI-DOPING AND MEDICA-
10 TION CONTROL PROGRAM.—The term “horseracing
11 anti-doping and medication control program” means
12 the anti-doping and medication program established
13 under section 6(a).

14 (9) IMMEDIATE FAMILY MEMBER.—The term
15 “immediate family member” shall include a spouse,
16 domestic partner, mother, father, aunt, uncle, sib-
17 ling, or child.

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

22 (11) JOCKEY.—The term “jockey” means a
23 rider or driver of a covered horse in covered
24 horseraces.

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

5 (13) PROGRAM EFFECTIVE DATE.—The term
6 “program effective date” means the earlier of—

7 (A) January 1 of the second year after the
8 date of the enactment of this Act; or

9 (B) the date that is 540 days after such
10 date of enactment.

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

14 (15) RACETRACK SAFETY PROGRAM.—The term
15 “racetrack safety program” means the program es-
16 tablished under section 7(a).

17 (16) STAKES RACE.—The term “stakes race”
18 means any race so designated by the racetrack at
19 which such race is run, including, without limitation,
20 the races comprising the Breeders’ Cup World
21 Championships and the races designated as graded
22 stakes by the American Graded Stakes Committee of
23 the Thoroughbred Owners and Breeders Association.

24 (17) STATE RACING COMMISSION.—The term
25 “State racing commission” means an entity des-

1 ignated by State law or regulation that has jurisdic-
2 tion over the conduct of horseracing within the ap-
3 plicable State.

4 (18) **TRAINER.**—The term “trainer” means an
5 individual engaged in the training of covered horses.

6 (19) **TRAINING FACILITY.**—The term “training
7 facility” means a location that is not a racetrack li-
8 censed by a State racing commission that operates
9 primarily to house covered horses and conduct offi-
10 cial timed workouts.

11 (20) **VETERINARIAN.**—The term “veterinarian”
12 means a licensed veterinarian who provides veteri-
13 nary services to covered horses.

14 (21) **WORKOUT.**—The term “workout” means a
15 timed running of a horse over a predetermined dis-
16 tance not associated with a race or its first quali-
17 fying race, if such race is made subject to this Act
18 by election under section 5(k) of the horse’s breed
19 governing organization or the applicable State racing
20 commission.

21 **SEC. 3. RECOGNITION OF THE HORSERACING INTEGRITY**
22 **AND SAFETY AUTHORITY.**

23 (a) **IN GENERAL.**—The private, independent, self-
24 regulatory, nonprofit corporation, to be known as the
25 “Horseracing Integrity and Safety Authority”, is recog-

1 nized for purposes of developing and implementing a
2 horseracing anti-doping and medication control program
3 and a racetrack safety program for covered horses, cov-
4 ered persons, and covered horseraces.

5 (b) BOARD OF DIRECTORS.—

6 (1) MEMBERSHIP.—The Authority shall be gov-
7 erned by a board of directors (in this section re-
8 ferred to as the “Board”) comprised of nine mem-
9 bers as follows:

10 (A) INDEPENDENT MEMBERS.—Five mem-
11 bers of the Board shall be independent mem-
12 bers selected from outside the equine industry.

13 (B) INDUSTRY MEMBERS.—

14 (i) IN GENERAL.—Four members of
15 the Board shall be industry members se-
16 lected from among the various equine con-
17 stituencies.

18 (ii) REPRESENTATION OF EQUINE
19 CONSTITUENCIES.—The industry members
20 shall be representative of the various
21 equine constituencies, and shall include not
22 more than one industry member from any
23 one equine constituency.

24 (2) CHAIR.—The chair of the Board shall be an
25 independent member described in paragraph (1)(A).

1 (3) BYLAWS.—The Board of the Authority shall
2 be governed by bylaws for the operation of the Au-
3 thority with respect to—

4 (A) the administrative structure and em-
5 ployees of the Authority;

6 (B) the establishment of standing commit-
7 tees;

8 (C) the procedures for filling vacancies on
9 the Board and the standing committees;

10 (D) term limits for members and termi-
11 nation of membership; and

12 (E) any other matter the Board considers
13 necessary.

14 (c) STANDING COMMITTEES.—

15 (1) ANTI-DOPING AND MEDICATION CONTROL
16 STANDING COMMITTEE.—

17 (A) IN GENERAL.—The Authority shall es-
18 tablish an anti-doping and medication control
19 standing committee, which shall provide advice
20 and guidance to the Board on the development
21 and maintenance of the horseracing anti-doping
22 and medication control program.

23 (B) MEMBERSHIP.—The anti-doping and
24 medication control standing committee shall be
25 comprised of seven members as follows:

1 (i) INDEPENDENT MEMBERS.—A ma-
2 jority of the members shall be independent
3 members selected from outside the equine
4 industry.

5 (ii) INDUSTRY MEMBERS.—A minority
6 of the members shall be industry members
7 selected to represent the various equine
8 constituencies, and shall include not more
9 than one industry member from any one
10 equine constituency.

11 (iii) QUALIFICATION.—A majority of
12 individuals selected to serve on the anti-
13 doping and medication control standing
14 committee shall have significant, recent ex-
15 perience in anti-doping and medication
16 control rules.

17 (C) CHAIR.—The chair of the anti-doping
18 and medication control standing committee
19 shall be an independent member of the Board
20 described in subsection (b)(1)(A).

21 (2) RACETRACK SAFETY STANDING COM-
22 MITTEE.—

23 (A) IN GENERAL.—The Authority shall es-
24 tablish a racetrack safety standing committee,
25 which shall provide advice and guidance to the

1 Board on the development and maintenance of
2 the racetrack safety program.

3 (B) MEMBERSHIP.—The racetrack safety
4 standing committee shall be comprised of seven
5 members as follows:

6 (i) INDEPENDENT MEMBERS.—A ma-
7 jority of the members shall be independent
8 members selected from outside the equine
9 industry.

10 (ii) INDUSTRY MEMBERS.—A minority
11 of the members shall be industry members
12 selected to represent the various equine
13 constituencies.

14 (C) CHAIR.—The chair of the racetrack
15 safety standing committee shall be an industry
16 member of the Board described in subsection
17 (b)(1)(B).

18 (d) NOMINATING COMMITTEE.—

19 (1) MEMBERSHIP.—

20 (A) IN GENERAL.—The nominating com-
21 mittee of the Authority shall be comprised of
22 seven independent members selected from busi-
23 ness, sports, and academia.

24 (B) INITIAL MEMBERSHIP.—The initial
25 nominating committee members shall be set

1 forth in the governing corporate documents of
2 the Authority.

3 (C) VACANCIES.—After the initial com-
4 mittee members are appointed in accordance
5 with subparagraph (B), vacancies shall be filled
6 by the Board pursuant to rules established by
7 the Authority.

8 (2) CHAIR.—The chair of the nominating com-
9 mittee shall be selected by the nominating committee
10 from among the members of the nominating com-
11 mittee.

12 (3) SELECTION OF MEMBERS OF THE BOARD
13 AND STANDING COMMITTEES.—

14 (A) INITIAL MEMBERS.—The nominating
15 committee shall select the initial members of
16 the Board and the standing committees de-
17 scribed in subsection (c).

18 (B) SUBSEQUENT MEMBERS.— The nomi-
19 nating committee shall recommend individuals
20 to fill any vacancy on the Board or on such
21 standing committees.

22 (e) CONFLICTS OF INTEREST.—To avoid conflicts of
23 interest, the following individuals may not be selected as
24 a member of the Board or as an independent member of
25 a nominating or standing committee under this section:

1 (1) An individual who has a financial interest
2 in, or provides goods or services to, covered horses.

3 (2) An official or officer—

4 (A) of an equine industry representative;
5 or

6 (B) who serves in a governance or policy-
7 making capacity for an equine industry rep-
8 resentative.

9 (3) An employee of, or an individual who has a
10 business or commercial relationship with, an indi-
11 vidual described in paragraph (1) or (2).

12 (4) An immediate family member of an indi-
13 vidual described in paragraph (1) or (2).

14 (f) FUNDING.—

15 (1) INITIAL FUNDING.—

16 (A) IN GENERAL.—Initial funding to es-
17 tablish the Authority and underwrite its oper-
18 ations before the program effective date shall be
19 provided by loans obtained by the Authority.

20 (B) BORROWING.—The Authority may bor-
21 row funds toward the funding of its operations.

22 (C) ANNUAL CALCULATION OF AMOUNTS
23 REQUIRED.—

24 (i) IN GENERAL.—Not later than the
25 date that is 90 days before the program ef-

1 fective date, and not later than November
2 1 each year thereafter, the Authority shall
3 determine and provide to each State racing
4 commission the estimated amount required
5 from the State—

6 (I) to fund the State's propor-
7 tionate share of the horseracing anti-
8 doping and medication control pro-
9 gram and the racetrack safety pro-
10 gram for the next calendar year; and

11 (II) to liquidate the State's pro-
12 portionate share of any loan or fund-
13 ing shortfall in the current calendar
14 year and any previous calendar year.

15 (ii) BASIS OF CALCULATION.—The
16 amounts calculated under clause (i) shall—

17 (I) be based on—

18 (aa) the annual budget of
19 the Authority for the following
20 calendar year, as approved by the
21 Board; and

22 (bb) the projected amount of
23 covered racing starts for the year
24 in each State; and

1 (II) take into account other
2 sources of Authority revenue.

3 (iii) REQUIREMENTS REGARDING
4 BUDGETS OF AUTHORITY.—

5 (I) INITIAL BUDGET.—The initial
6 budget of the Authority shall require
7 the approval of $\frac{2}{3}$ of the Board.

8 (II) SUBSEQUENT BUDGETS.—
9 Any subsequent budget that exceeds
10 the budget of the preceding calendar
11 year by more than 5 percent shall re-
12 quire the approval of $\frac{2}{3}$ of the Board.

13 (iv) RATE INCREASES.—

14 (I) IN GENERAL.—A proposed in-
15 crease in the amount required under
16 this subparagraph shall be reported to
17 the Commission.

18 (II) NOTICE AND COMMENT.—
19 The Commission shall publish in the
20 Federal Register such a proposed in-
21 crease and provide an opportunity for
22 public comment.

23 (2) ASSESSMENT AND COLLECTION OF FEES BY
24 STATES.—

1 (A) NOTICE OF ELECTION.—Any State
2 racing commission that elects to remit fees pur-
3 suant to this subsection shall notify the Author-
4 ity of such election not later than 60 days be-
5 fore the program effective date.

6 (B) REQUIREMENT TO REMIT FEES.—
7 After a State racing commission makes a notifi-
8 cation under subparagraph (A), the election
9 shall remain in effect and the State racing com-
10 mission shall be required to remit fees pursuant
11 to this subsection according to a schedule estab-
12 lished in rule developed by the Authority and
13 approved by the Commission.

14 (C) WITHDRAWAL OF ELECTION.—A State
15 racing commission may cease remitting fees
16 under this subsection not earlier than one year
17 after notifying the Authority of the intent of
18 the State racing commission to do so.

19 (D) DETERMINATION OF METHODS.—Each
20 State racing commission shall determine, sub-
21 ject to the applicable laws, regulations, and con-
22 tracts of the State, the method by which the
23 requisite amount of fees, such as foal registra-
24 tion fees, sales contributions, starter fees, and

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

3 (3) ASSESSMENT AND COLLECTION OF FEES BY
4 THE AUTHORITY.—

5 (A) CALCULATION.—If a State racing com-
6 mission does not elect to remit fees pursuant to
7 paragraph (2) or withdraws its election under
8 such paragraph, the Authority shall, not less
9 frequently than monthly, calculate the applica-
10 ble fee per racing start multiplied by the num-
11 ber of racing starts in the State during the pre-
12 ceding month.

13 (B) ALLOCATION.—The Authority shall al-
14 locate equitably the amount calculated under
15 subparagraph (A) collected among covered per-
16 sons involved with covered horseraces pursuant
17 to such rules as the Authority may promulgate.

18 (C) ASSESSMENT AND COLLECTION.—

19 (i) IN GENERAL.—The Authority shall
20 assess a fee equal to the allocation made
21 under subparagraph (B) and shall collect
22 such fee according to such rules as the Au-
23 thority may promulgate.

24 (ii) REMITTANCE OF FEES.—Covered
25 persons described in subparagraph (B)

1 shall be required to remit such fees to the
2 Authority.

3 (D) LIMITATION.—A State racing commis-
4 sion that does not elect to remit fees pursuant
5 to paragraph (2) or that withdraws its election
6 under such paragraph shall not impose or col-
7 lect from any person a fee or tax relating to
8 anti-doping and medication control or racetrack
9 safety matters for covered horseraces.

10 (4) FEES AND FINES.—Fees and fines imposed
11 by the Authority shall be allocated toward funding
12 of the Authority and its activities.

13 (5) RULE OF CONSTRUCTION.—Nothing in this
14 Act shall be construed to require—

15 (A) the appropriation of any amount to the
16 Authority; or

17 (B) the Federal Government to guarantee
18 the debts of the Authority.

19 (g) QUORUM.—For all items where Board approval
20 is required, the Authority shall have present a majority
21 of independent members.

22 **SEC. 4. FEDERAL TRADE COMMISSION OVERSIGHT.**

23 (a) IN GENERAL.—The Authority shall submit to the
24 Commission, in accordance with such rules as the Com-
25 mission may prescribe under section 553 of title 5, United

- 1 States Code, any proposed rule, or proposed modification
2 to a rule, of the Authority relating to—
- 3 (1) the bylaws of the Authority;
 - 4 (2) a list of permitted and prohibited medica-
5 tions, substances, and methods, including allowable
6 limits of permitted medications, substances, and
7 methods;
 - 8 (3) laboratory standards for accreditation and
9 protocols;
 - 10 (4) standards for racing surface quality mainte-
11 nance;
 - 12 (5) racetrack safety standards and protocols;
 - 13 (6) a program for injury and fatality data anal-
14 ysis;
 - 15 (7) a program of research and education on
16 safety, performance, and anti-doping and medication
17 control;
 - 18 (8) a description of safety, performance, and
19 anti-doping and medication control rule violations
20 applicable to covered horses and covered persons;
 - 21 (9) a schedule of civil sanctions for violations;
 - 22 (10) a process or procedures for disciplinary
23 hearings; and
 - 24 (11) a formula or methodology for determining
25 assessments described in section 3(f).

1 (b) PUBLICATION AND COMMENT.—

2 (1) IN GENERAL.—The Commission shall—

3 (A) publish in the Federal Register each
4 proposed rule or modification submitted under
5 subsection (a); and

6 (B) provide an opportunity for public com-
7 ment.

8 (2) APPROVAL REQUIRED.—A proposed rule, or
9 a proposed modification to a rule, of the Authority
10 shall not take effect unless the proposed rule or
11 modification has been approved by the Commission.

12 (c) DECISION ON PROPOSED RULE OR MODIFICA-
13 TION TO A RULE.—

14 (1) IN GENERAL.—Not later than 60 days after
15 the date on which a proposed rule or modification is
16 published in the Federal Register, the Commission
17 shall approve or disapprove the proposed rule or
18 modification.

19 (2) CONDITIONS.—The Commission shall ap-
20 prove a proposed rule or modification if the Commis-
21 sion finds that the proposed rule or modification is
22 consistent with—

23 (A) this Act; and

24 (B) applicable rules approved by the Com-
25 mission.

1 (3) REVISION OF PROPOSED RULE OR MODI-
2 FICATION.—

3 (A) IN GENERAL.—In the case of dis-
4 approval of a proposed rule or modification
5 under this subsection, not later than 30 days
6 after the issuance of the disapproval, the Com-
7 mission shall make recommendations to the Au-
8 thority to modify the proposed rule or modifica-
9 tion.

10 (B) RESUBMISSION.—The Authority may
11 resubmit for approval by the Commission a pro-
12 posed rule or modification that incorporates the
13 modifications recommended under subpara-
14 graph (A).

15 (d) PROPOSED STANDARDS AND PROCEDURES.—

16 (1) IN GENERAL.—The Authority shall submit
17 to the Commission any proposed rule, standard, or
18 procedure developed by the Authority to carry out
19 the horseracing anti-doping and medication control
20 program or the racetrack safety program.

21 (2) NOTICE AND COMMENT.—The Commission
22 shall publish in the Federal Register any such pro-
23 posed rule, standard, or procedure and provide an
24 opportunity for public comment.

1 (e) INTERIM FINAL RULES.—The Commission may
2 adopt an interim final rule, to take effect immediately,
3 under conditions specified in section 553(b)(B) of title 5,
4 United States Code, if the Commission finds that such a
5 rule is necessary to protect—

6 (1) the health and safety of covered horses; or

7 (2) the integrity of covered horseraces and wa-
8 gering on those horseraces.

9 **SEC. 5. JURISDICTION OF THE COMMISSION AND THE**
10 **HORSERACING INTEGRITY AND SAFETY AU-**
11 **THORITY.**

12 (a) IN GENERAL.—Beginning on the program effec-
13 tive date, the Commission, the Authority, and the anti-
14 doping and medication control enforcement agency, each
15 within the scope of their powers and responsibilities under
16 this Act, as limited by subsection (j), shall—

17 (1) implement and enforce the horseracing anti-
18 doping and medication control program and the
19 racetrack safety program;

20 (2) exercise independent and exclusive national
21 authority over—

22 (A) the safety, welfare, and integrity of
23 covered horses, covered persons, and covered
24 horseraces; and

1 (B) all horseracing safety, performance,
2 and anti-doping and medication control matters
3 for covered horses, covered persons, and covered
4 horseraces; and

5 (3) have safety, performance, and anti-doping
6 and medication control authority over covered per-
7 sons similar to such authority of the State racing
8 commissions before the program effective date.

9 (b) PREEMPTION.—The rules of the Authority pro-
10 mulgated in accordance with this Act shall preempt any
11 provision of State law or regulation with respect to mat-
12 ters within the jurisdiction of the Authority under this
13 Act, as limited by subsection (j). Nothing contained in this
14 Act shall be construed to limit the authority of the Com-
15 mission under any other provision of law.

16 (c) DUTIES.—

17 (1) IN GENERAL.—The Authority—

18 (A) shall develop uniform procedures and
19 rules authorizing—

20 (i) access to offices, racetrack facili-
21 ties, other places of business, books,
22 records, and personal property of covered
23 persons that are used in the care, treat-
24 ment, training, and racing of covered
25 horses;

1 (ii) issuance and enforcement of sub-
2 poenas and subpoenas duces tecum; and

3 (iii) other investigatory powers of the
4 nature and scope exercised by State racing
5 commissions before the program effective
6 date; and

7 (B) with respect to an unfair or deceptive
8 act or practice described in section 10, may rec-
9 ommend that the Commission commence an en-
10 forcement action.

11 (2) APPROVAL OF COMMISSION.—The proce-
12 dures and rules developed under paragraph (1)(A)
13 shall be subject to approval by the Commission in
14 accordance with section 4.

15 (d) REGISTRATION OF COVERED PERSONS WITH AU-
16 THORITY.—

17 (1) IN GENERAL.—As a condition of partici-
18 pating in covered races and in the care, ownership,
19 treatment, and training of covered horses, a covered
20 person shall register with the Authority in accord-
21 ance with rules promulgated by the Authority and
22 approved by the Commission in accordance with sec-
23 tion 4.

24 (2) AGREEMENT WITH RESPECT TO AUTHORITY
25 RULES, STANDARDS, AND PROCEDURES.—Registra-

1 tion under this subsection shall include an agree-
2 ment by the covered person to be subject to and
3 comply with the rules, standards, and procedures de-
4 veloped and approved under subsection (c).

5 (3) COOPERATION.—A covered person reg-
6 istered under this subsection shall, at all times—

7 (A) cooperate with the Commission, the
8 Authority, the anti-doping and medication con-
9 trol enforcement agency, and any respective
10 designee, during any civil investigation; and

11 (B) respond truthfully and completely to
12 the best of the knowledge of the covered person
13 if questioned by the Commission, the Authority,
14 the anti-doping and medication control enforce-
15 ment agency, or any respective designee.

16 (4) FAILURE TO COMPLY.—Any failure of a
17 covered person to comply with this subsection shall
18 be a violation of section 8(a)(2)(G).

19 (e) ENFORCEMENT OF PROGRAMS.—

20 (1) ANTI-DOPING AND MEDICATION CONTROL
21 ENFORCEMENT AGENCY.—

22 (A) AGREEMENT WITH USADA.—The Au-
23 thority shall seek to enter into an agreement
24 with the United States Anti-Doping Agency
25 under which the Agency acts as the anti-doping

1 and medication control enforcement agency
2 under this Act for services consistent with the
3 horseracing anti-doping and medication control
4 program.

5 (B) AGREEMENT WITH OTHER ENTITY.—If
6 the Authority and the United States Anti-
7 Doping Agency are unable to enter into the
8 agreement described in subparagraph (A), the
9 Authority shall enter into an agreement with an
10 entity that is nationally recognized as being a
11 medication regulation agency equal in qualifica-
12 tion to the United States Anti-Doping Agency
13 to act as the anti-doping and medication control
14 enforcement agency under this Act for services
15 consistent with the horseracing anti-doping and
16 medication control program.

17 (C) NEGOTIATIONS.—Any negotiations
18 under this paragraph shall be conducted in
19 good faith and designed to achieve efficient, ef-
20 fective best practices for anti-doping and medi-
21 cation control and enforcement on commercially
22 reasonable terms.

23 (D) ELEMENTS OF AGREEMENT.—Any
24 agreement under this paragraph shall include a
25 description of the scope of work, performance

1 metrics, reporting obligations, and budgets of
2 the United States Anti-Doping Agency while
3 acting as the anti-doping and medication con-
4 trol enforcement agency under this Act, as well
5 as a provision for the revision of the agreement
6 to increase in the scope of work as provided for
7 in subsection (k), and any other matter the Au-
8 thority considers appropriate.

9 (E) DUTIES AND POWERS OF ENFORCE-
10 MENT AGENCY.—The anti-doping and medica-
11 tion control enforcement agency under an
12 agreement under this paragraph shall—

13 (i) serve as the independent anti-
14 doping and medication control enforcement
15 organization for covered horses, covered
16 persons, and covered horseraces, imple-
17 menting the anti-doping and medication
18 control program on behalf of the Author-
19 ity;

20 (ii) ensure that covered horses and
21 covered persons are deterred from using or
22 administering medications, substances, and
23 methods in violation of the rules estab-
24 lished in accordance with this Act;

1 (iii) implement anti-doping education,
2 research, testing, compliance and adjudica-
3 tion programs designed to prevent covered
4 persons and covered horses from using or
5 administering medications, substances, and
6 methods in violation of the rules estab-
7 lished in accordance with this Act;

8 (iv) exercise the powers specified in
9 section 6(c)(4) in accordance with that sec-
10 tion; and

11 (v) implement and undertake any
12 other responsibilities specified in the agree-
13 ment.

14 (F) TERM AND EXTENSION.—

15 (i) TERM OF INITIAL AGREEMENT.—
16 The initial agreement entered into by the
17 Authority under this paragraph shall be in
18 effect for the 5-year period beginning on
19 the program effective date.

20 (ii) EXTENSION.—At the end of the 5-
21 year period described in clause (i), the Au-
22 thority may—

23 (I) extend the term of the initial
24 agreement under this paragraph for
25 such additional term as is provided by

1 the rules of the Authority and con-
2 sistent with this Act; or

3 (II) enter into an agreement
4 meeting the requirements of this para-
5 graph with an entity described by sub-
6 paragraph (B) for such term as is
7 provided by such rules and consistent
8 with this Act.

9 (2) AGREEMENTS FOR ENFORCEMENT BY
10 STATE RACING COMMISSIONS.—

11 (A) STATE RACING COMMISSIONS.—

12 (i) RACETRACK SAFETY PROGRAM.—

13 The Authority may enter into agreements
14 with State racing commissions for services
15 consistent with the enforcement of the
16 racetrack safety program.

17 (ii) ANTI-DOPING AND MEDICATION

18 CONTROL PROGRAM.—The anti-doping and
19 medication control enforcement agency
20 may enter into agreements with State rac-
21 ing commissions for services consistent
22 with the enforcement of the anti-doping
23 and medication control program.

24 (B) ELEMENTS OF AGREEMENTS.—Any
25 agreement under this paragraph shall include a

1 description of the scope of work, performance
2 metrics, reporting obligations, budgets, and any
3 other matter the Authority considers appro-
4 priate.

5 (3) ENFORCEMENT OF STANDARDS.—The Au-
6 thority may coordinate with State racing commis-
7 sions and other State regulatory agencies to monitor
8 and enforce racetrack compliance with the standards
9 developed under paragraphs (1) and (2) of section
10 7(c).

11 (f) PROCEDURES WITH RESPECT TO RULES OF AU-
12 THORITY.—

13 (1) ANTI-DOPING AND MEDICATION CON-
14 TROL.—

15 (A) IN GENERAL.—Recommendations for
16 rules regarding anti-doping and medication con-
17 trol shall be developed in accordance with sec-
18 tion 6.

19 (B) CONSULTATION.—The anti-doping and
20 medication control enforcement agency shall
21 consult with the anti-doping and medication
22 control standing committee and the Board of
23 the Authority on all anti-doping and medication
24 control rules of the Authority.

1 (2) RACETRACK SAFETY.—Recommendations
2 for rules regarding racetrack safety shall be devel-
3 oped by the racetrack safety standing committee of
4 the Authority

5 (g) SUBPOENA AND INVESTIGATORY AUTHORITY.—
6 The Authority shall have subpoena and investigatory au-
7 thority with respect to civil violations committed under its
8 jurisdiction.

9 (h) CIVIL PENALTIES.—The Authority shall develop
10 a list of civil penalties with respect to the enforcement of
11 rules for covered persons and covered horseraces under its
12 jurisdiction.

13 (i) CIVIL ACTIONS.—

14 (1) IN GENERAL.—In addition to civil sanctions
15 imposed under section 8, the Authority may com-
16 mence a civil action against a covered person or
17 racetrack that has engaged, is engaged, or is about
18 to engage, in acts or practices constituting a viola-
19 tion of this Act or any rule established under this
20 Act in the proper district court of the United States,
21 the United States District Court for the District of
22 Columbia, or the United States courts of any terri-
23 tory or other place subject to the jurisdiction of the
24 United States, to enjoin such acts or practices, to
25 enforce any civil sanctions imposed under that sec-

1 tion, and for all other relief to which the Authority
2 may be entitled.

3 (2) INJUNCTIONS AND RESTRAINING ORDERS.—

4 With respect to a civil action commenced under
5 paragraph (1), upon a proper showing, a permanent
6 or temporary injunction or restraining order shall be
7 granted without bond.

8 (j) LIMITATIONS ON AUTHORITY.—

9 (1) PROSPECTIVE APPLICATION.—The jurisdic-
10 tion and authority of the Authority and the Commis-
11 sion with respect to the horseracing anti-doping and
12 medication control program and the racetrack safety
13 program shall be prospective only.

14 (2) PREVIOUS MATTERS.—

15 (A) IN GENERAL.—The Authority and the
16 Commission may not investigate, prosecute, ad-
17 judicate, or penalize conduct in violation of the
18 horseracing anti-doping and medication control
19 program and the racetrack safety program that
20 occurs before the program effective date.

21 (B) STATE RACING COMMISSION.—With re-
22 spect to conduct described in subparagraph (A),
23 the applicable State racing commission shall re-
24 tain authority until the final resolution of the
25 matter.

1 (3) OTHER LAWS UNAFFECTED.—This Act
2 shall not be construed to modify, impair or restrict
3 the operation of the general laws or regulations, as
4 may be amended from time to time, of the United
5 States, the States and their political subdivisions re-
6 lating to criminal conduct, cruelty to animals, mat-
7 ters unrelated to antidoping, medication control and
8 racetrack and racing safety of covered horses and
9 covered races, and the use of medication in human
10 participants in covered races.

11 (k) ELECTION FOR OTHER BREED COVERAGE
12 UNDER ACT.—

13 (1) IN GENERAL.—A State racing commission
14 or a breed governing organization for a breed of
15 horses other than Thoroughbred horses may elect to
16 have such breed be covered by this Act by the filing
17 of a designated election form and subsequent ap-
18 proval by the Authority. A State racing commission
19 may elect to have a breed covered by this Act for the
20 applicable State only.

21 (2) ELECTION CONDITIONAL ON FUNDING
22 MECHANISM.—A commission or organization may
23 not make an election under paragraph (1) unless the
24 commission or organization has in place a mecha-
25 nism to provide sufficient funds to cover the costs of

1 the administration of this Act with respect to the
2 horses that will be covered by this Act as a result
3 of the election.

4 (3) APPORTIONMENT.—The Authority shall ap-
5 portion costs described in paragraph (2) in connec-
6 tion with an election under paragraph (1) fairly
7 among all impacted segments of the horseracing in-
8 dustry, subject to approval by the Commission in ac-
9 cordance with section 4. Such apportionment may
10 not provide for the allocation of costs or funds
11 among breeds of horses.

12 **SEC. 6. HORSERACING ANTI-DOPING AND MEDICATION**
13 **CONTROL PROGRAM.**

14 (a) PROGRAM REQUIRED.—

15 (1) IN GENERAL.—Not later than the program
16 effective date, and after notice and an opportunity
17 for public comment in accordance with section 4, the
18 Authority shall establish a horseracing anti-doping
19 and medication control program applicable to all
20 covered horses, covered persons, and covered
21 horseraces in accordance with the registration of
22 covered persons under section 5(d).

23 (2) CONSIDERATION OF OTHER BREEDS.—In
24 developing the horseracing anti-doping and medica-
25 tion control program with respect to a breed of horse

1 that is made subject to this Act by election of a
2 State racing commission or the breed governing or-
3 ganization for such horse under section 5(k), the
4 Authority shall consider the unique characteristics of
5 such breed.

6 (b) CONSIDERATIONS IN DEVELOPMENT OF PRO-
7 GRAM.—In developing the horseracing anti-doping and
8 medication control program, the Authority shall take into
9 consideration the following:

10 (1) Covered horses should compete only when
11 they are free from the influence of medications,
12 other foreign substances, and methods that affect
13 their performance.

14 (2) Covered horses that are injured or unsound
15 should not train or participate in covered races, and
16 the use of medications, other foreign substances, and
17 treatment methods that mask or deaden pain in
18 order to allow injured or unsound horses to train or
19 race should be prohibited.

20 (3) Rules, standards, procedures, and protocols
21 regulating medication and treatment methods for
22 covered horses and covered races should be uniform
23 and uniformly administered nationally.

24 (4) To the extent consistent with this Act, con-
25 sideration should be given to international anti-

1 doping and medication control standards of the
2 International Federation of Horseracing Authorities
3 and the Principles of Veterinary Medical Ethics of
4 the American Veterinary Medical Association.

5 (5) The administration of medications and
6 treatment methods to covered horses should be
7 based upon an examination and diagnosis that iden-
8 tifies an issue requiring treatment for which the
9 medication or method represents an appropriate
10 component of treatment.

11 (6) The amount of therapeutic medication that
12 a covered horse receives should be the minimum nec-
13 essary to address the diagnosed health concerns
14 identified during the examination and diagnostic
15 process.

16 (7) The welfare of covered horses, the integrity
17 of the sport, and the confidence of the betting public
18 require full disclosure to regulatory authorities re-
19 garding the administration of medications and treat-
20 ments to covered horses.

21 (c) ACTIVITIES.—The following activities shall be car-
22 ried out under the horseracing anti-doping and medication
23 control program:

24 (1) STANDARDS FOR ANTI-DOPING AND MEDI-
25 CATION CONTROL.—Not later than 120 days before

1 the program effective date, the Authority shall issue,
2 by rule—

3 (A) uniform standards for—

4 (i) the administration of medication to
5 covered horses by covered persons; and

6 (ii) laboratory testing accreditation
7 and protocols; and

8 (B) a list of permitted and prohibited
9 medications, substances, and methods, including
10 allowable limits of permitted medications, sub-
11 stances, and methods.

12 (2) REVIEW PROCESS FOR ADMINISTRATION OF
13 MEDICATION.—The development of a review process
14 for the administration of any medication to a cov-
15 ered horse during the 48-hour period preceding the
16 next racing start of the covered horse.

17 (3) AGREEMENT REQUIREMENTS.—The devel-
18 opment of requirements with respect to agreements
19 under section 5(e).

20 (4) ANTI-DOPING AND MEDICATION CONTROL
21 ENFORCEMENT AGENCY.—

22 (A) CONTROL RULES, PROTOCOLS, ETC.—
23 Except as provided in paragraph (5), the anti-
24 doping and medication control program enforce-
25 ment agency under section 5(e) shall, in con-

1 sultation with the anti-doping and medication
2 control standing committee of the Authority
3 and consistent with international best practices,
4 develop and recommend anti-doping and medi-
5 cation control rules, protocols, policies, and
6 guidelines for approval by the Authority.

7 (B) RESULTS MANAGEMENT.—The anti-
8 doping and medication control enforcement
9 agency shall conduct and oversee anti-doping
10 and medication control results management, in-
11 cluding independent investigations, charging
12 and adjudication of potential medication control
13 rule violations, and the enforcement of any civil
14 sanctions for such violations. Any final decision
15 or civil sanction of the anti-doping and medica-
16 tion control enforcement agency under this sub-
17 paragraph shall be the final decision or civil
18 sanction of the Authority, subject to review in
19 accordance with section 9.

20 (C) TESTING.—The anti-doping enforce-
21 ment agency shall perform and manage test dis-
22 tribution planning (including intelligence-based
23 testing), the sample collection process, and in-
24 competition and out-of-competition testing (in-
25 cluding no-advance-notice testing).

1 (D) TESTING LABORATORIES.—The anti-
2 doping and medication control enforcement
3 agency shall accredit testing laboratories based
4 upon the standards established under this Act,
5 and shall monitor, test, and audit accredited
6 laboratories to ensure continuing compliance
7 with accreditation standards.

8 (5) ANTI-DOPING AND MEDICATION CONTROL
9 STANDING COMMITTEE.—The anti-doping and medi-
10 cation control standing committee shall, in consulta-
11 tion with the anti-doping and medication control en-
12 forcement agency, develop lists of permitted and pro-
13 hibited medications, methods, and substances for
14 recommendation to, and approval by, the Authority.
15 Any such list may prohibit the administration of any
16 substance or method to a horse at any time after
17 such horse becomes a covered horse if the Authority
18 determines such substance or method has a long-
19 term degrading effect on the soundness of a horse.

20 (d) PROHIBITION.—Except as provided in sub-
21 sections (e) and (f), the horseracing anti-doping and medi-
22 cation control program shall prohibit the administration
23 of any prohibited or otherwise permitted substance to a
24 covered horse within 48 hours of its next racing start, ef-
25 fective as of the program effective date.

1 (e) ADVISORY COMMITTEE STUDY AND REPORT.—

2 (1) IN GENERAL.—Not later than the program
3 effective date, the Authority shall convene an advi-
4 sory committee comprised of horseracing anti-doping
5 and medication control industry experts, including a
6 member designated by the anti-doping and medica-
7 tion control enforcement agency, to conduct a study
8 on the use of furosemide on horses during the 48-
9 hour period before the start of a race, including the
10 effect of furosemide on equine health and the integ-
11 rity of competition and any other matter the Author-
12 ity considers appropriate.

13 (2) REPORT.—Not later than three years after
14 the program effective date, the Authority shall direct
15 the advisory committee convened under paragraph
16 (1) to submit to the Authority a written report on
17 the study conducted under that paragraph that in-
18 cludes recommended changes, if any, to the prohibi-
19 tion in subsection (d).

20 (3) MODIFICATION OF PROHIBITION.—

21 (A) IN GENERAL.—After receipt of the re-
22 port required by paragraph (2), the Authority
23 may, by unanimous vote of the Board of the
24 Authority, modify the prohibition in subsection
25 (d) and, notwithstanding subsection (f), any

1 such modification shall apply to all States be-
2 ginning on the date that is three years after the
3 program effective date.

4 (B) CONDITION.—In order for a unani-
5 mous vote described in subparagraph (A) to ef-
6 fect a modification of the prohibition in sub-
7 section (d), the vote must include unanimous
8 adoption of each of the following findings:

9 (i) That the modification is war-
10 ranted.

11 (ii) That the modification is in the
12 best interests of horse racing.

13 (iii) That furosemide has no perform-
14 ance enhancing effect on individual horses.

15 (iv) That public confidence in the in-
16 tegrity and safety of racing would not be
17 adversely affected by the modification.

18 (f) EXEMPTION.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2), only during the three-year period begin-
21 ning on the program effective date, a State racing
22 commission may submit to the Authority, at such
23 time and in such manner as the Authority may re-
24 quire, a request for an exemption from the prohibi-

1 tion in subsection (d) with respect to the use of
2 furosemide on covered horses during such period.

3 (2) EXCEPTIONS.—An exemption under para-
4 graph (1) may not be requested for—

5 (A) two-year-old covered horses; or

6 (B) covered horses competing in stakes
7 races.

8 (3) CONTENTS OF REQUEST.—A request under
9 paragraph (1) shall specify the applicable State rac-
10 ing commission's requested limitations on the use of
11 furosemide that would apply to the State under the
12 horseracing anti-doping and medication control pro-
13 gram during such period. Such limitations shall be
14 no less restrictive on the use and administration of
15 furosemide than the restrictions set forth in State's
16 laws and regulations in effect as of September 1,
17 2020.

18 (4) GRANT OF EXEMPTION.—Subject to sub-
19 section (e)(3), the Authority shall grant an exemp-
20 tion requested under paragraph (1) for the remain-
21 der of such period and shall allow the use of
22 furosemide on covered horses in the applicable State,
23 in accordance with the requested limitations.

24 (g) BASELINE ANTI-DOPING AND MEDICATION CON-
25 TROL RULES.—

1 (1) IN GENERAL.—Subject to paragraph (3),
2 the baseline anti-doping and medication control rules
3 described in paragraph (2) shall—

4 (A) constitute the initial rules of the horse-
5 racing anti-doping and medication control pro-
6 gram; and

7 (B) except as exempted pursuant to sub-
8 sections (e) and (f), remain in effect at all
9 times after the program effective date.

10 (2) BASELINE ANTI-DOPING MEDICATION CON-
11 TROL RULES DESCRIBED.—

12 (A) IN GENERAL.—The baseline anti-
13 doping and medication control rules described
14 in this paragraph are the following:

15 (i) The lists of permitted and prohib-
16 ited substances (including drugs, medica-
17 tions, and naturally occurring substances
18 and synthetically occurring substances) in
19 effect for the International Federation of
20 Horseracing Authorities, including the
21 International Federation of Horseracing
22 Authorities International Screening Limits
23 for urine, dated May 2019, and the Inter-
24 national Federation of Horseracing Au-

1 thorities International Screening Limits for
2 plasma, dated May 2019.

3 (ii) The World Anti-Doping Agency
4 International Standard for Laboratories
5 (version 10.0), dated November 12, 2019.

6 (iii) The Association of Racing Com-
7 missioners International out-of-competition
8 testing standards, Model Rules of Racing
9 (version 9.2).

10 (iv) The Association of Racing Com-
11 missioners International penalty and mul-
12 tiple medication violation rules, Model
13 Rules of Racing (version 6.2).

14 (B) CONFLICT OF RULES.—In the case of
15 a conflict among the rules described in subpara-
16 graph (A), the most stringent rule shall apply.

17 (3) MODIFICATIONS TO BASELINE RULES.—

18 (A) DEVELOPMENT BY ANTI-DOPING AND
19 MEDICATION CONTROL STANDING COM-
20 MITTEE.—The anti-doping and medication con-
21 trol standing committee, in consultation with
22 the anti-doping and medication control enforce-
23 ment agency, may develop and submit to the
24 Authority for approval by the Authority pro-

1 posed modifications to the baseline anti-doping
2 and medication control rules.

3 (B) **AUTHORITY APPROVAL.**—If the Au-
4 thority approves a proposed modification under
5 this paragraph, the proposed modification shall
6 be submitted to and considered by the Commis-
7 sion in accordance with section 4.

8 (C) **ANTI-DOPING AND MEDICATION CON-**
9 **TROL ENFORCEMENT AGENCY VETO AUTHOR-**
10 **ITY.**—The Authority shall not approve any pro-
11 posed modification that renders an anti-doping
12 and medication control rule less stringent than
13 the baseline anti-doping and medication control
14 rules described in paragraph (2) (including by
15 increasing permitted medication thresholds,
16 adding permitted medications, removing prohib-
17 ited medications, or weakening enforcement
18 mechanisms) without the approval of the anti-
19 doping and medication control enforcement
20 agency.

21 **SEC. 7. RACETRACK SAFETY PROGRAM.**

22 (a) **ESTABLISHMENT AND CONSIDERATIONS.**—

23 (1) **IN GENERAL.**—Not later than the program
24 effective date, and after notice and an opportunity
25 for public comment in accordance with section 4, the

1 Authority shall establish a racetrack safety program
2 applicable to all covered horses, covered persons, and
3 covered horseraces in accordance with the registra-
4 tion of covered persons under section 5(d).

5 (2) CONSIDERATIONS IN DEVELOPMENT OF
6 SAFETY PROGRAM.—In the development of the
7 horseracing safety program for covered horses, cov-
8 ered persons, and covered horseraces, the Authority
9 and the Commission shall take into consideration ex-
10 isting safety standards including the National Thor-
11 oughbred Racing Association Safety and Integrity
12 Alliance Code of Standards, the International Fed-
13 eration of Horseracing Authority’s International
14 Agreement on Breeding, Racing, and Wagering, and
15 the British Horseracing Authority’s Equine Health
16 and Welfare program.

17 (b) ELEMENTS OF HORSERACING SAFETY PRO-
18 GRAM.—The horseracing safety program shall include the
19 following:

20 (1) A set of training and racing safety stand-
21 ards and protocols taking into account regional dif-
22 ferences and the character of differing racing facili-
23 ties.

24 (2) A uniform set of training and racing safety
25 standards and protocols consistent with the humane

1 treatment of covered horses, which may include lists
2 of permitted and prohibited practices or methods
3 (such as crop use).

4 (3) A racing surface quality maintenance sys-
5 tem that—

6 (A) takes into account regional differences
7 and the character of differing racing facilities;
8 and

9 (B) may include requirements for track
10 surface design and consistency and established
11 standard operating procedures related to track
12 surface, monitoring, and maintenance (such as
13 standardized seasonal assessment, daily track-
14 ing, and measurement).

15 (4) A uniform set of track safety standards and
16 protocols, that may include rules governing oversight
17 and movement of covered horses and human and
18 equine injury reporting and prevention.

19 (5) Programs for injury and fatality data anal-
20 ysis, that may include pre- and post-training and
21 race inspections, use of a veterinarian's list, and
22 concussion protocols.

23 (6) The undertaking of investigations at race-
24 track and non-racetrack facilities related to safety
25 violations.

1 (7) Procedures for investigating, charging, and
2 adjudicating violations and for the enforcement of
3 civil sanctions for violations.

4 (8) A schedule of civil sanctions for violations.

5 (9) Disciplinary hearings, which may include
6 binding arbitration, civil sanctions, and research.

7 (10) Management of violation results.

8 (11) Programs relating to safety and perform-
9 ance research and education.

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

14 (c) ACTIVITIES.—The following activities shall be car-
15 ried out under the racetrack safety program:

16 (1) STANDARDS FOR RACETRACK SAFETY.—
17 The development, by the racetrack safety standing
18 committee of the Authority in section 3(c)(2) of uni-
19 form standards for racetrack and horseracing safety.

20 (2) STANDARDS FOR SAFETY AND PERFORM-
21 ANCE ACCREDITATION.—

22 (A) IN GENERAL.—Not later than 120
23 days before the program effective date, the Au-
24 thority, in consultation with the racetrack safe-

1 ty standing committee, shall issue, by rule in
2 accordance with section 4—

3 (i) safety and performance standards
4 of accreditation for racetracks; and

5 (ii) the process by which a racetrack
6 may achieve and maintain accreditation by
7 the Authority.

8 (B) MODIFICATIONS.—

9 (i) IN GENERAL.—The Authority may
10 modify rules establishing the standards
11 issued under subparagraph (A), as the Au-
12 thority considers appropriate.

13 (ii) NOTICE AND COMMENT.—The
14 Commission shall publish in the Federal
15 Register any proposed rule of the Author-
16 ity, and provide an opportunity for public
17 comment with respect to, any modification
18 under clause (i) in accordance with section
19 4.

20 (C) EXTENSION OF PROVISIONAL OR IN-
21 TERIM ACCREDITATION.—The Authority may,
22 by rule in accordance with section 4, extend
23 provisional or interim accreditation to a race-
24 track accredited by the National Thoroughbred
25 Racing Association Safety and Integrity Alli-

1 ance on a date before the program effective
2 date.

3 (3) NATIONWIDE SAFETY AND PERFORMANCE
4 DATABASE.—

5 (A) IN GENERAL.—Not later than one year
6 after the program effective date, and after no-
7 tice and an opportunity for public comment in
8 accordance with section 4, the Authority, in
9 consultation with the Commission, shall develop
10 and maintain a nationwide database of race-
11 horse safety, performance, health, and injury
12 information for the purpose of conducting an
13 epidemiological study.

14 (B) COLLECTION OF INFORMATION.—In
15 accordance with the registration of covered per-
16 sons under section 5(d), the Authority may re-
17 quire covered persons to collect and submit to
18 the database described in subparagraph (A)
19 such information as the Authority may require
20 to further the goal of increased racehorse wel-
21 fare.

22 **SEC. 8. RULE VIOLATIONS AND CIVIL SANCTIONS.**

23 (a) DESCRIPTION OF RULE VIOLATIONS.—

24 (1) IN GENERAL.—The Authority shall issue, by
25 rule in accordance with section 4, a description of

1 safety, performance, and anti-doping and medication
2 control rule violations applicable to covered horses
3 and covered persons.

4 (2) ELEMENTS.—The description of rule viola-
5 tions established under paragraph (1) may include
6 the following:

7 (A) With respect to a covered horse, strict
8 liability for covered trainers for—

9 (i) the presence of a prohibited sub-
10 stance or method in a sample or the use of
11 a prohibited substance or method;

12 (ii) the presence of a permitted sub-
13 stance in a sample in excess of the amount
14 allowed by the horseracing anti-doping and
15 medication control program; and

16 (iii) the use of a permitted method in
17 violation of the applicable limitations es-
18 tablished under the horseracing anti-
19 doping and medication control program.

20 (B) Attempted use of a prohibited sub-
21 stance or method on a covered horse.

22 (C) Possession of any prohibited substance
23 or method.

24 (D) Attempted possession of any prohib-
25 ited substance or method.

1 (E) Administration or attempted adminis-
2 tration of any prohibited substance or method
3 on a covered horse.

4 (F) Refusal or failure, without compelling
5 justification, to submit a covered horse for sam-
6 ple collection.

7 (G) Failure to cooperate with the Author-
8 ity or an agent of the Authority during any in-
9 vestigation.

10 (H) Failure to respond truthfully, to the
11 best of a covered person's knowledge, to a ques-
12 tion of the Authority or an agent of the Author-
13 ity with respect to any matter under the juris-
14 diction of the Authority.

15 (I) Tampering or attempted tampering
16 with the application of the safety, performance,
17 or anti-doping and medication control rules or
18 process adopted by the Authority, including—

19 (i) the intentional interference, or an
20 attempt to interfere, with an official or
21 agent of the Authority;

22 (ii) the procurement or the provision
23 of fraudulent information to the Authority
24 or agent; and

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

3 (J) Trafficking or attempted trafficking in
4 any prohibited substance or method.

5 (K) Assisting, encouraging, aiding, abet-
6 ting, conspiring, covering up, or any other type
7 of intentional complicity involving a safety, per-
8 formance, or anti-doping and medication control
9 rule violation or the violation of a period of sus-
10 pension or eligibility.

11 (L) Threatening or seeking to intimidate a
12 person with the intent of discouraging the per-
13 son from the good faith reporting to the Au-
14 thority, an agent of the Authority or the Com-
15 mission, or the anti-doping and medication con-
16 trol enforcement agency under section 5(e), of
17 information that relates to—

18 (i) an alleged safety, performance, or
19 anti-doping and medication control rule
20 violation; or

21 (ii) alleged noncompliance with a safe-
22 ty, performance, or anti-doping and medi-
23 cation control rule.

24 (b) TESTING LABORATORIES.—

1 (1) ACCREDITATION AND STANDARDS.—Not
2 later than 120 days before the program effective
3 date, the Authority shall, in consultation with the
4 anti-doping and medication control enforcement
5 agency, establish, by rule in accordance with section
6 4—

7 (A) standards of accreditation for labora-
8 tories involved in testing samples from covered
9 horses;

10 (B) the process for achieving and main-
11 taining accreditation; and

12 (C) the standards and protocols for testing
13 such samples.

14 (2) ADMINISTRATION.—The accreditation of
15 laboratories and the conduct of audits of accredited
16 laboratories to ensure compliance with Authority
17 rules shall be administered by the anti-doping and
18 medication control enforcement agency. The anti-
19 doping and medication control enforcement agency
20 shall have the authority to require specific test sam-
21 ples to be directed to and tested by laboratories hav-
22 ing special expertise in the required tests.

23 (3) EXTENSION OF PROVISIONAL OR INTERIM
24 ACCREDITATION.—The Authority may, by rule in ac-
25 cordance with section 4, extend provisional or in-

1 terim accreditation to a laboratory accredited by the
2 Racing Medication and Testing Consortium, Inc., on
3 a date before the program effective date.

4 (4) SELECTION OF LABORATORIES.—

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

11 (B) SELECTION BY THE AUTHORITY.—If a
12 State racing commission does not select an ac-
13 credited laboratory under subparagraph (A),
14 the Authority shall select such a laboratory to
15 test samples taken in the State concerned.

16 (c) RESULTS MANAGEMENT AND DISCIPLINARY
17 PROCESS.—

18 (1) IN GENERAL.—Not later than 120 days be-
19 fore the program effective date, the Authority shall
20 establish in accordance with section 4—

21 (A) rules for safety, performance, and anti-
22 doping and medication control results manage-
23 ment; and

1 (B) the disciplinary process for safety, per-
2 formance, and anti-doping and medication con-
3 trol rule violations.

4 (2) ELEMENTS.—The rules and process estab-
5 lished under paragraph (1) shall include the fol-
6 lowing:

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

10 (B) Hearing procedures.

11 (C) Standards for 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 (3) DUE PROCESS.—The rules established
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 safety, performance, or anti-doping and medi-
22 cation control rule violation and the possible civil
23 sanctions for such violation.

24 (d) CIVIL SANCTIONS.—

1 (1) IN GENERAL.—The Authority shall estab-
2 lish uniform rules, in accordance with section 4, im-
3 posing civil sanctions against covered persons or cov-
4 ered horses for safety, performance, and anti-doping
5 and medication control rule violations.

6 (2) REQUIREMENTS.—The rules established
7 under paragraph (1) shall—

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

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

12 (C) deter safety, performance, and anti-
13 doping and medication control rule violations.

14 (3) SEVERITY.—The civil sanctions under para-
15 graph (1) may include—

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

20 (B) with respect to anti-doping and medi-
21 cation control rule violators, an opportunity to
22 reduce the applicable civil sanctions that is
23 comparable to the opportunity provided by the
24 Protocol for Olympic Movement Testing of the
25 United States Anti-Doping Agency.

1 (e) MODIFICATIONS.—The Authority may propose a
2 modification to any rule established under this section as
3 the Authority considers appropriate, and the proposed
4 modification shall be submitted to and considered by the
5 Commission in accordance with section 4.

6 **SEC. 9. REVIEW OF FINAL DECISIONS OF THE AUTHORITY.**

7 (a) NOTICE OF CIVIL SANCTIONS.— If the Authority
8 imposes a final civil sanction for a violation committed by
9 a covered person pursuant to the rules or standards of
10 the Authority, the Authority shall promptly submit to the
11 Commission notice of the civil sanction in such form as
12 the Commission may require.

13 (b) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

14 (1) IN GENERAL.—With respect to a final civil
15 sanction imposed by the Authority, on application by
16 the Commission or a person aggrieved by the civil
17 sanction filed not later than 30 days after the date
18 on which notice under subsection (a) is submitted,
19 the civil sanction shall be subject to de novo review
20 by an administrative law judge.

21 (2) NATURE OF REVIEW.—

22 (A) IN GENERAL.—In matters reviewed
23 under this subsection, the administrative law
24 judge shall determine whether—

1 (i) a person has engaged in such acts
2 or practices, or has omitted such acts or
3 practices, as the Authority has found the
4 person to have engaged in or omitted;

5 (ii) such acts, practices, or omissions
6 are in violation of this Act or the anti-
7 doping and medication control or racetrack
8 safety rules approved by the Commission;
9 or

10 (iii) the final civil sanction of the Au-
11 thority was arbitrary, capricious, an abuse
12 of discretion, or otherwise not in accord-
13 ance with law.

14 (B) CONDUCT OF HEARING.—An adminis-
15 trative law judge shall conduct a hearing under
16 this subsection in such a manner as the Com-
17 mission may specify by rule, which shall con-
18 form to section 556 of title 5, United States
19 Code.

20 (3) DECISION BY ADMINISTRATIVE LAW
21 JUDGE.—

22 (A) IN GENERAL.—With respect to a mat-
23 ter reviewed under this subsection, an adminis-
24 trative law judge—

1 (i) shall render a decision not later
2 than 60 days after the conclusion of the
3 hearing;

4 (ii) may affirm, reverse, modify, set
5 aside, or remand for further proceedings,
6 in whole or in part, the final civil sanction
7 of the Authority; and

8 (iii) may make any finding or conclu-
9 sion that, in the judgment of the adminis-
10 trative law judge, is proper and based on
11 the record.

12 (B) FINAL DECISION.—A decision under
13 this paragraph shall constitute the decision of
14 the Commission without further proceedings
15 unless a notice or an application for review is
16 timely filed under subsection (c).

17 (c) REVIEW BY COMMISSION.—

18 (1) NOTICE OF REVIEW BY COMMISSION.—The
19 Commission may, on its own motion, review any de-
20 cision of an administrative law judge issued under
21 subsection (b)(3) by providing written notice to the
22 Authority and any interested party not later than 30
23 days after the date on which the administrative law
24 judge issues the decision.

25 (2) APPLICATION FOR REVIEW.—

1 (A) IN GENERAL.—The Authority or a per-
2 son aggrieved by a decision issued under sub-
3 section (b)(3) may petition the Commission for
4 review of such decision by filing an application
5 for review not later than 30 days after the date
6 on which the administrative law judge issues
7 the decision.

8 (B) EFFECT OF DENIAL OF APPLICATION
9 FOR REVIEW.—If an application for review
10 under subparagraph (A) is denied, the decision
11 of the administrative law judge shall constitute
12 the decision of the Commission without further
13 proceedings.

14 (C) DISCRETION OF COMMISSION.—

15 (i) IN GENERAL.—A decision with re-
16 spect to whether to grant an application
17 for review under subparagraph (A) is sub-
18 ject to the discretion of the Commission.

19 (ii) MATTERS TO BE CONSIDERED.—
20 In determining whether to grant such an
21 application for review, the Commission
22 shall consider whether the application
23 makes a reasonable showing that—

1 (I) a prejudicial error was com-
2 mitted in the conduct of the pro-
3 ceeding; or

4 (II) the decision involved—

5 (aa) an erroneous applica-
6 tion of the anti-doping and medi-
7 cation control or racetrack safety
8 rules approved by the Commis-
9 sion; or

10 (bb) an exercise of discretion
11 or a decision of law or policy that
12 warrants review by the Commis-
13 sion.

14 (3) NATURE OF REVIEW.—

15 (A) IN GENERAL.—In matters reviewed
16 under this subsection, the Commission may—

17 (i) affirm, reverse, modify, set aside,
18 or remand for further proceedings, in
19 whole or in part, the decision of the admin-
20 istrative law judge; and

21 (ii) make any finding or conclusion
22 that, in the judgement of the Commission,
23 is proper and based on the record.

24 (B) DE NOVO REVIEW.—The Commission
25 shall review de novo the factual findings and

1 conclusions of law made by the administrative
2 law judge.

3 (C) CONSIDERATION OF ADDITIONAL EVI-
4 DENCE.—

5 (i) MOTION BY COMMISSION.—The
6 Commission may, on its own motion, allow
7 the consideration of additional evidence.

8 (ii) MOTION BY A PARTY.—

9 (I) IN GENERAL.—A party may
10 file a motion to consider additional
11 evidence at any time before the
12 issuance of a decision by the Commis-
13 sion, which shall show, with particu-
14 larity, that—

15 (aa) such additional evidence
16 is material; and

17 (bb) there were reasonable
18 grounds for failure to submit the
19 evidence previously.

20 (II) PROCEDURE.—The Commis-
21 sion may—

22 (aa) accept or hear addi-
23 tional evidence; or

24 (bb) remand the proceeding
25 to the administrative law judge

1 for the consideration of addi-
2 tional evidence.

3 (d) STAY OF PROCEEDINGS.—Review by an adminis-
4 trative law judge or the Commission under this section
5 shall not operate as a stay of a final civil sanction of the
6 Authority unless the administrative law judge or Commis-
7 sion orders such a stay.

8 **SEC. 10. UNFAIR OR DECEPTIVE ACTS OR PRACTICES.**

9 The sale of a covered horse, or of any other horse
10 in anticipation of its future participation in a covered race,
11 shall be considered an unfair or deceptive act or practice
12 in or affecting commerce under section 5(a) of the Federal
13 Trade Commission Act (15 U.S.C. 45(a)) if the seller—

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

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

18 (B) any other substance or method the Au-
19 thority determines has a long-term degrading
20 effect on the soundness of the covered horse;
21 and

22 (2) fails to disclose to the buyer the administra-
23 tion of the bisphosphonate or other substance or
24 method described in paragraph (1)(B).

1 **SEC. 11. STATE DELEGATION; COOPERATION.**

2 (a) STATE DELEGATION.—

3 (1) IN GENERAL.—The Authority may enter
4 into an agreement with a State racing commission to
5 implement, within the jurisdiction of the State rac-
6 ing commission, a component of the racetrack safety
7 program or, with the concurrence of the anti-doping
8 and medication control enforcement agency under
9 section 5(e), a component of the horseracing anti-
10 doping and medication control program, if the Au-
11 thority determines that the State racing commission
12 has the ability to implement such component in ac-
13 cordance with the rules, standards, and require-
14 ments established by the Authority.

15 (2) IMPLEMENTATION BY STATE RACING COM-
16 MISSION.—A State racing commission or other ap-
17 propriate regulatory body of a State may not imple-
18 ment such a component in a manner less restrictive
19 than the rule, standard, or requirement established
20 by the Authority.

21 (b) COOPERATION.—To avoid duplication of func-
22 tions, facilities, and personnel, and to attain closer coordi-
23 nation and greater effectiveness and economy in adminis-
24 tration of Federal and State law, where conduct by any
25 person subject to the horseracing medication control pro-
26 gram or the racetrack safety program may involve both

1 a medication control or racetrack safety rule violation and
2 violation of Federal or State law, the Authority and Fed-
3 eral or State law enforcement authorities shall cooperate
4 and share information.

