
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2659 Session of
2018

INTRODUCED BY DiGIROLAMO, SEPTEMBER 24, 2018

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
SEPTEMBER 24, 2018

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated
2 Statutes, in horse racing, authorizing the Commonwealth of
3 Pennsylvania to join the Interstate Anti-Doping and Drug
4 Testing Standards Compact.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 3 of the Pennsylvania Consolidated Statutes
8 is amended by adding a chapter to read:

9 CHAPTER 95

10 INTERSTATE COMPACT

11 Sec.

12 9501. Short title of chapter.

13 9502. Interstate Anti-Doping and Drug Testing Standards Compact

14 Act.

15 § 9501. Short title of chapter.

16 This chapter shall be known and may be cited as the
17 Interstate Anti-Doping and Drug Testing Standards Compact Act.

18 § 9502. Interstate Anti-Doping and Drug Testing Standards

19 Compact.

1 The Commonwealth is hereby authorized to enter into the
2 following compact subject to the terms and conditions stated in
3 the compact:

4 ARTICLE I. PURPOSES

5 The purposes of this Compact are:

6 (a) To enable Member States to act jointly and cooperatively
7 to create more uniform, effective, and efficient thoroughbred
8 breed specific rules and regulations relating to the permitted
9 and prohibited use of drugs and medications for the health and
10 welfare of the horse and the integrity of thoroughbred racing,
11 and testing for such substances, in or affecting a Member State;
12 and

13 (b) To authorize the State Horse Racing Commission to
14 participate in the compact.

15 ARTICLE II. DEFINITIONS

16 As used in this compact:

17 (a) "Compact Commission" means the organization of delegates
18 from the Member States that is authorized and empowered by this
19 compact to carry out the purposes of this compact.

20 (b) "Compact Rule" means a rule or regulation adopted by a
21 Member State regulating the permitted and prohibited use of
22 drugs and medications for the health and welfare of the horse
23 and the integrity of racing, and testing for such substances, in
24 live pari-mutuel horse racing that occurs in or affects such
25 States.

26 (c) "Delegate" means the chair of the Member State Racing
27 Commission or similar regulatory body in a State, or such
28 person's designee, who represents the Member State as a voting
29 member of the Compact Commission and anyone who is serving as
30 such person's alternate.

1 (d) "Equine Drug Rule" means a rule or regulation that
2 relates to the administration of drugs, medications, or other
3 substances to a horse that may participate in live horse racing
4 with pari-mutuel wagering including, but not limited to, the
5 regulation of the permissible use of such substances to ensure
6 the integrity of racing and the health, safety and welfare of
7 race horses, appropriate sanctions for rule violations, and
8 quality laboratory testing programs to detect such substances in
9 the bodily system or a race horse.

10 (e) "Live Racing" means live horse racing, except harness
11 horse racing, with pari-mutuel wagering.

12 (f) "Member State" means each State that has enacted this
13 compact.

14 (g) "National Industry Stakeholder" means a non-
15 governmental organization that from a national perspective
16 significantly represents one (1) or more categories of
17 participants in live racing and pari-mutuel wagering.

18 (h) "Participants in live racing" means all persons who
19 participate in, operate, provide industry services for, or are
20 involved with live racing with pari-mutuel wagering.

21 (i) "State" means each of the several States of the United
22 States, the District of Columbia, the Commonwealth of Puerto
23 Rico, and each territory or possession of the United States.

24 (j) "State Racing Commission" means the State racing
25 commission, or its equivalent, in each Member State, where a
26 Member State has more than one; it shall mean all such racing
27 commissions, or their equivalents.

28 ARTICLE III. COMPOSITION AND MEETING OF COMPACT COMMISSION

29 The Member States shall create and participate in a Compact
30 Commission as follows:

1 (a) This compact shall come into force when enacted by any
2 two (2) eligible States, and shall thereafter become effective
3 as to any other Member State that enacts this compact. Any
4 State that has adopted or authorized pari-mutuel wagering or
5 live horse racing shall be eligible to become a party to this
6 compact. A compact rule shall not become effective in a new
7 Member State based merely upon it entering the compact.

8 (b) The Member States hereby create the interstate anti-
9 doping and drug testing standards Compact Commission, a body
10 corporate and an interstate governmental entity of the Member
11 States, to coordinate the rule making actions of each Member
12 State Racing Commission through a Compact Commission.

13 (c) The Compact Commission shall consist of one delegate,
14 the chair of the State Racing Commission or such person's
15 designee, from each Member State, when a delegate is not present
16 to perform any duty in the Compact Commission, a designated
17 alternate may serve. The person who represents a Member State in
18 the Compact Commission shall serve and perform such duties
19 without compensation or remuneration; provided that subject to
20 the availability of budgeted funds, each may be reimbursed for
21 ordinary and necessary costs and expenses. The designation of a
22 delegate, including the alternate, shall be effective when
23 written notice has been provided to the Compact Commission. The
24 delegate, including the alternate, must be a member or employee
25 of the State Racing Commission.

26 (d) The compact delegate from each State shall participate
27 as an agent of the State Racing Commission. Each delegate shall
28 have the assistance of the State Racing Commission in regard to
29 all decision making and actions of the State in and through the
30 Compact Commission.

1 (e) Each Member State, by its delegate, shall be entitled to
2 one vote in the Compact Commission. A super majority affirmative
3 vote of eighty percent (80%) of the total number of delegates
4 shall be required to propose a compact rule, receive and
5 distribute any funds and to adopt, amend, or rescind the by-
6 laws. A compact rule shall take effect in and for each Member
7 State when adopted by a super majority affirmative vote of
8 eighty percent (80%) of the total number of Member States.
9 Other compact actions shall require a majority vote of the
10 delegates who are meeting.

11 (f) Meetings and votes of the Compact Commission may be
12 conducted in person or by telephone or other electronic
13 communication. Meetings may be called by the chair of the
14 Compact Commission or by any two (2) delegates, reasonable
15 notice of each meeting shall be provided to delegates serving in
16 the Compact Commission.

17 (g) No action may be taken at a Compact Commission meeting
18 unless there is a quorum, which is either a majority of the
19 delegates in the Compact Commission, or where applicable, all
20 the delegates from any Member States who propose or are voting
21 affirmatively to adopt a compact rule.

22 (h) Once effective, the compact shall continue force and
23 remain binding according to its terms upon each Member State;
24 provided that, a Member State may withdraw from the compact by
25 repealing the statute that enacted the compact into law. The
26 Racing Commission of a withdrawing State shall give written
27 notice of such withdrawal to the compact chair, who shall notify
28 the Member State Racing Commissions. A withdrawing State shall
29 remain responsible for any unfulfilled obligations and
30 liabilities, the effective date of withdrawal from the compact

1 shall be the effective date of the repeal.

2 ARTICLE IV. OPERATION OF COMPACT COMMISSION

3 The Compact Commission is hereby granted, so that it may be
4 an effective means to pursue and achieve the purposes of each
5 Member State in this compact, the power and duty:

6 (a) To adopt, amend, and rescind by-laws to govern its
7 conduct, as may be necessary or appropriate to carry out the
8 purposes of the compact; to publish them in a convenient form;
9 and to file a copy of them with the State Racing Commission of
10 each Member State;

11 (b) To elect annually from among the delegates (including
12 alternates) a chair, vice-chair, and treasurer with such
13 authority and duties as may be specified in the by-laws;

14 (c) To establish and appoint committees which it deems
15 necessary for the carrying out of its functions, including
16 advisory committees which shall be comprised of National
17 Industry Stakeholders and organizations and such other persons
18 as may be designated in accordance with the by-laws, to obtain
19 their timely and meaningful input into the compact rule making
20 processes;

21 (d) To establish an executive committee, with membership
22 established in the by-laws, which shall oversee the day-to-day
23 activities of compact administration and management by the
24 executive director and staff; hire and fire as may be necessary
25 after consultation with the Compact Commission; administer and
26 enforce compliance with the provisions, by-laws, and rules of
27 the compact; and perform such other duties as the by-laws may
28 establish an executive committee, with membership;

29 (e) To create, appoint, and abolish all those offices,
30 employments, and positions, including an executive director,

1 useful to fulfill its purposes;

2 (f) To delegate day-to-day management and administration of
3 its duties, as needed, to an executive director and support
4 staff; and

5 (g) To adopt an annual budget sufficient to provide for
6 the payment of the reasonable expenses of its
7 establishment, organization, and ongoing activities;
8 provided, that the budget shall be funded by only voluntary
9 contributions.

10 ARTICLE V. GENERAL POWERS AND DUTIES

11 To allow each Member State, as and when it chooses, to
12 achieve the purpose of the compact through joint and cooperative
13 action, the Member States are hereby granted the power and duty,
14 by and through the Compact Commission:

15 (a) To act jointly and cooperatively to create a more
16 equitable and uniform thoroughbred pari-mutuel racing and
17 wagering interstate regulatory framework by the adoption of
18 standardized rules for the permitted and prohibited use of
19 drugs and medications for the health, and welfare of the horse
20 and the integrity of racing, including rules governing the use
21 of drugs and medications and drug testing;

22 (b) To collaborate with National Industry Stakeholders and
23 industry organizations, including the association of
24 Racing Commissioners International, Inc. and the
25 Racing Medication and Testing Consortium, in the design and
26 implementation of compact rules in a manner that serves the best
27 interests of racing; and

28 (c) To propose and adopt thoroughbred specific compact
29 equine drugs and medications rules for the health, and welfare
30 of the horse, including rules governing the permitted and

1 prohibited use of drugs and medications and drug testing, which
2 shall have the force and effect of the State rules or
3 regulations in the Member States, to govern live pari-mutuel
4 thoroughbred horse racing.

5 ARTICLE VI. OTHER POWERS AND DUTIES

6 The Compact Commission may exercise such incidental powers
7 and duties as may be necessary and proper for it to function in
8 a useful manner, including but not limited to the power and
9 duty:

10 (a) To enter into contracts and agreements with governmental
11 agencies and other persons, including officers and employees of
12 a Member State, to provide personal services for its activities
13 and such other services as may be necessary;

14 (b) To borrow, accept, and contract for the services of
15 personnel from any State, Federal, or other Governmental Agency,
16 or from any other person or entity;

17 (c) To receive information from and to provide information
18 to each Member State Racing Commission, including its officers
19 and staff, on such terms and conditions as may be established in
20 the by-laws;

21 (d) To acquire, hold, and dispose of any real or personal
22 property by gift, grant, purchase, lease, license, and similar
23 means and to receive additional funds through gifts, grants, and
24 appropriations;

25 (e) When authorized by a compact rule, to conduct hearings
26 and render reports and advisory decisions and orders; and

27 (f) To establish in the by-laws the requirements that shall
28 describe and govern its duties to conduct open or public
29 meetings and to provide public access to compact records and
30 information.

1 ARTICLE VII. COMPACT RULE MAKING

2 In the exercise of its rule making authority, the Compact
3 Commission shall:

4 (a) Engage in formal rule making pursuant to a process
5 that substantially conforms to the model State Administrative
6 Procedure Act of 1981 as amended, as may be appropriate to the
7 actions and operations of the Compact Commission;

8 (b) Gather information and engage in discussions with
9 advisory committees, National Industry Stakeholders, and others,
10 including an opportunity for industry organizations to submit
11 input to Member State Racing Commissions on the state level, to
12 foster, promote and conduct a collaborative approach in the
13 design and advancement of compact rules in a manner that serves
14 the best interests of racing and as established in the by-laws;

15 (c) Direct the publication in each Member State of each
16 equine drug rule proposed by the Compact Commission, conduct a
17 review of public comments received by each Member State Racing
18 Commission and the Compact Commission in response to the
19 publication of its rule making proposals, consult with National
20 Industry Stakeholders and participants in live racing with
21 regard to such process and any revisions to the compact rule
22 proposal, and meet upon the completion of the public comment
23 period to conduct a vote on the adoption of the proposed compact
24 rule as a state rule in the Member States. The super majority
25 affirmative vote of eighty percent (80%) of the member delegates
26 for a proposed compact rule shall be necessary and sufficient to
27 adopt, amend, or rescind a compact rule as applicable to the
28 Member States; and

29 (d) Have a standing committee that reviews at least
30 quarterly the participation in and value of compact rules, and

1 when it determines that a revision is appropriate or when
2 requested by any Member State, submits a revising proposed
3 compact rule. To the extent a revision would only remove a
4 Member State or States from where a compact rule has been
5 adopted, the vote required by this article shall only be
6 required by such State or States. The standing committee shall
7 gather information and engage in discussions with National
8 Stakeholders, who may also directly recommend a compact rule
9 proposal or revision to the Compact Committee.

10 ARTICLE VIII. STATUS AND RELATIONSHIP TO MEMBER STATES

11 (a) The Compact Commission, as an interstate governmental
12 entity, shall be exempt from all taxation in and by the Members
13 States.

14 (b) The Compact Commission shall not pledge the credit of
15 any Member State except by and with the appropriate legal
16 authority of that State.

17 (c) Each Member State shall reimburse or otherwise pay the
18 expenses of its delegate, including any alternate, in the
19 Compact Commission.

20 (d) No Member State, except as provided in Article XI of
21 this compact, shall be held liable for the debts or other
22 financial obligations incurred by the Compact Commission.

23 (e) No Member State shall have, while it participates in the
24 Compact Commission, any claim to or ownership of any property
25 held by or vested in the Compact Commission or to any Compact
26 Commission funds held pursuant to this compact except for state
27 license or other fees or moneys collected by the Compact
28 Commission as its agent.

29 (f) The compact dissolves upon the date of the withdrawal of
30 the Member State that reduces membership in the compact to one

1 (1) State. Upon dissolution, the compact becomes null and void
2 and shall be of no further force or effect, although equine drug
3 rules adopted through this compact shall remain rules in each
4 Member State that had adopted them, and the business and
5 affairs of the compact shall be concluded and any surplus funds
6 shall be distributed to the former Member States in accordance
7 with the by-laws.

8 ARTICLE IX. RIGHTS AND RESPONSIBILITIES OF MEMBER STATES

9 (a) Each Member State in the compact shall accept
10 the decisions, duly applicable to it, of the Compact Commission
11 in regard to compact rules and rule making.

12 (b) This compact shall not be construed to diminish or limit
13 the powers and responsibilities of the Member State Racing
14 Commission or similar regulatory body, or to invalidate any
15 action it has previously taken, except to the extent it has by
16 its compact delegate, expressed its consent to a specific rule
17 or other action of the Compact Commission. The compact delegate
18 from each state shall serve as the agent of the State Racing
19 Commission and shall possess substantial knowledge and
20 experience as a regulator or participant in the thoroughbred
21 horse racing industry.

22 ARTICLE X. ENFORCEMENT OF COMPACT

23 (a) The Compact Commission shall have standing to
24 intervene in any legal action that pertains to the subject
25 matter of the compact and might affect its powers, duties, or
26 actions.

27 (b) The courts and executive in each Member State shall
28 enforce the compact and take all actions necessary and
29 appropriate to effectuate its purposes and intent. Compact
30 provisions, by-laws, and rules shall be received by all judges,

1 departments, agencies, bodies, and officers of each Member State
2 and its political subdivisions as evidence of them.

3 ARTICLE XI. LEGAL ACTIONS AGAINST COMPACT

4 (a) Any person may commence a claim, action, or proceeding
5 against the Compact Commission in State Court for damages. The
6 Compact Commission shall have the benefit of the same limits of
7 liability, defenses, rights to indemnity and defense by the
8 State, and other legal rights and defenses for non-compact
9 matters of the State Racing Commission in the State. All legal
10 rights and defenses that arise from this compact shall also be
11 available to the Compact Commission.

12 (b) A Compact delegate, alternate, or other member or
13 employee of a State Racing Commission who undertakes compact
14 activities or duties does so in the course of business of their
15 State Racing Commission, and shall have the benefit of the same
16 limits of liability, defenses, rights to indemnity and defense
17 by the state, and other legal rights and defenses for non-
18 compact matters of state employees in their State. The
19 executive director and other employees of the Compact
20 Commission shall have the benefit of these same legal rights and
21 defenses of State employees in the Member State in which they
22 are primarily employed. All legal rights and defenses that arise
23 from this compact shall also be available to them.

24 (c) Each Member State shall be liable for and pay judgments
25 filed against the Compact Commission to the extent related to
26 its participation in the compact. Where liability arises from
27 action undertaken jointly with other Member States, the
28 liability shall be divided equally among the states for whom the
29 applicable action or omission of the executive director or other
30 employees of the Compact Commission was undertaken; and no

1 Member State shall contribute to or pay, or be jointly or
2 severally or otherwise liable for, any part of any judgment
3 beyond its share as determined in accordance with this article.

4 ARTICLE XII. RESTRICTIONS ON AUTHORITY

5 Pennsylvania substantive state laws applicable to pari-mutuel
6 horse racing and wagering shall remain in full force and effect.

7 ARTICLE XIII. CONSTRUCTION, SAVING, AND SEVERABILITY

8 (a) This compact shall be liberally construed so as to
9 effectuate its purposes. The provisions of this compact shall be
10 severable and if any phrase, clause, sentence, or provision of
11 this compact is declared to be contrary to the Constitution of
12 the United States or of any Member State, or the applicability
13 of this compact to any government, agency, person, or
14 circumstance is held invalid, the validity of the remainder of
15 this compact and its applicability to any government, agency,
16 person, or circumstance shall not be affected. If all or some
17 portion of this compact is held to be contrary to the
18 Constitution of any Member State, the compact shall remain in
19 full force and effect as to the remaining Member States and in
20 full force and effect as to the state affected as to all
21 severable matters.

22 (b) In the event of any allegation, finding, or ruling
23 against the compact or its procedures or actions, provided that
24 a Member State has followed the compact's stated procedures, any
25 rule it purported to adopt using the procedures of this statute
26 shall constitute a duly adopted and valid state rule.

27 Section 2. Administrative duties.

28 (a) General rule.--When the Governor executes the Interstate
29 Compact on behalf of the Commonwealth and files a verified copy
30 thereof with the Secretary of the Commonwealth and when the

1 compact is ratified by one or more other states, then the
2 compact shall become operative and effective between the
3 Commonwealth and such other state or states. The Governor is
4 hereby authorized and directed to take such action as may be
5 necessary to complete the exchange of official documents between
6 the Commonwealth and any other state ratifying the compact.

7 (b) Notice in Pennsylvania Bulletin.--The Secretary of the
8 Commonwealth shall publish a notice in the Pennsylvania Bulletin
9 when the conditions set forth in subsection (a) are satisfied
10 and shall include in the notice the date on which the compact
11 became effective and operative between the Commonwealth and any
12 other state in accordance with this act.

13 Section 3. This act shall take effect in 60 days.