116TH CONGRESS
2D SESSION

S. 4547

To improve the integrity and safety of horseracing by requiring uniform safety and performance standards, including a horseracing anti-doping and medication control program and a racetrack safety program to be developed and enforced by an independent Horseracing Integrity and Safety Authority, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 9, 2020

Mr. MCCONNELL (for himself, Mrs. GILLIBRAND, Ms. MCSALLY, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To improve the integrity and safety of horseracing by requiring uniform safety and performance standards, including a horseracing anti-doping and medication control program and a racetrack safety program to be developed and enforced by an independent Horseracing Integrity and Safety Authority, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Horseracing Integrity and Safety Act of 2020''.

SEC. 2. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term ''Authority'' means the Horseracing Integrity and Safety Authority designated by section 3(a).

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(3) COVERED HORSE.—The term ''covered horse'' means any Thoroughbred horse, or any other horse made subject to this Act by election of the applicable State racing commission or the breed governing organization for such horse under section 5(k), during the period—

(A) beginning on the date of the horse's first timed and reported workout at a racetrack that participates in covered horseraces or at a training facility; and

(B) ending on the date on which the Authority receives written notice that the horse has been retired.

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

(5) COVERED PERSONS.—The term ''covered persons'' means all trainers, owners and breeders, jockeys, racetracks, veterinarians, persons (legal and natural) licensed by a State racing commission and the agents, assigns, and employees of such persons and other horse support personnel who are engaged in the care, training, or racing of covered horses.

(6) EQUINE CONSTITUENCIES.—The term ''equine constituencies'' means, collectively, owners and breeders, trainers, racetracks, veterinarians, State racing commissions, and jockeys who are engaged in the care, training, or racing of covered horses.

(7) EQUINE INDUSTRY REPRESENTATIVE.—The term ''equine industry representative'' means an organization regularly and significantly engaged in the equine industry, including organizations that represent the interests of, and whose membership consists of, owners and breeders, trainers, racetracks, veterinarians, State racing commissions, and jockeys.

(8) HORSERACING ANTI-DOPING AND MEDICATION CONTROL PROGRAM.—The term ''horseracing anti-doping and medication control program'' means

the anti-doping and medication program established under section 6(a).

(9) IMMEDIATE FAMILY MEMBER.—The term ''immediate family member'' shall include a spouse, domestic partner, mother, father, aunt, uncle, sibling, or child.

(10) INTERSTATE OFF-TRACK WAGER.—The term ''interstate off-track wager'' has the meaning given such term in section 3 of the Interstate Horseracing Act of 1978 (15 U.S.C. 3002).

(11) JOCKEY.—The term ''jockey'' means a rider or driver of a covered horse in covered horseraces.

(12) OWNERS AND BREEDERS.—The term ''owners and breeders'' means those persons who either hold ownership interests in covered horses or who are in the business of breeding covered horses.

(13) PROGRAM EFFECTIVE DATE.—The term ''program effective date'' means the earlier of—

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

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

(14) RACETRACK.—The term ''racetrack'' means an organization licensed by a State racing commission to conduct covered horseraces.

(15) RACETRACK SAFETY PROGRAM.—The term ''racetrack safety program'' means the program established under section 7(a).

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

(17) STATE RACING COMMISSION.—The term ''State racing commission'' means an entity designated by State law or regulation that has jurisdiction over the conduct of horseracing within the applicable State.

(18) TRAINER.—The term ''trainer'' means an individual engaged in the training of covered horses.

(19) TRAINING FACILITY.—The term ''training facility'' means a location that is not a racetrack licensed by a State racing commission that operates primarily to house covered horses and conduct official timed workouts.

(20) VETERINARIAN.—The term ''veterinarian'' means a licensed veterinarian who provides veterinary services to covered horses.

(21) WORKOUT.—The term ''workout'' means a timed running of a horse over a predetermined distance not associated with a race or its first qualifying race, if such race is made subject to this Act by election under section 5(k) of the horse's breed governing organization or the applicable State racing commission.

SEC. 3. RECOGNITION OF THE HORSERACING INTEGRITY AND SAFETY AUTHORITY.

(a) IN GENERAL.—The private, independent, self-regulatory, nonprofit corporation, to be known as the ''Horseracing Integrity and Safety Authority'', is recognized for purposes of developing and implementing a horseracing anti-doping and medication control program and a racetrack safety program for covered horses, covered persons, and covered horseraces.

(b) BOARD OF DIRECTORS.—

(1) MEMBERSHIP.—The Authority shall be governed by a board of directors (in this section referred to as the ''Board'') comprised of nine members as follows:

(A) INDEPENDENT MEMBERS.—Five members of the Board shall be independent members selected from outside the equine industry.

(B) INDUSTRY MEMBERS.—

(i) IN GENERAL.—Four members of the Board shall be industry members selected from among the various equine constituencies.

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

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

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

(A) the administrative structure and employees of the Authority;

(B) the establishment of standing committees;

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

(D) term limits for members and termination of membership; and

(E) any other matter the Board considers necessary.

(c) STANDING COMMITTEES.—

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

(A) IN GENERAL.—The Authority shall establish an anti-doping and medication control standing committee, which shall provide advice and guidance to the Board on the development and maintenance of the horseracing anti-doping and medication control program.

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

(i) INDEPENDENT MEMBERS.—A majority of the members shall be independent members selected from outside the equine industry.

(ii) INDUSTRY MEMBERS.—A minority of the members shall be industry members selected to represent the various equine constituencies, and shall include not more

than one industry member from any one equine constituency.

(iii) QUALIFICATION.—A majority of individuals selected to serve on the anti-doping and medication control standing committee shall have significant, recent experience in anti-doping and medication control rules.

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

(2) RACETRACK SAFETY STANDING COMMITTEE.—

(A) IN GENERAL.—The Authority shall establish a racetrack safety standing committee, which shall provide advice and guidance to the Board on the development and maintenance of the racetrack safety program.

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

(i) INDEPENDENT MEMBERS.—A majority of the members shall be independent

members selected from outside the equine industry.

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

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

(d) NOMINATING COMMITTEE.—

(1) MEMBERSHIP.—

(A) IN GENERAL.—The nominating committee of the Authority shall be comprised of seven independent members selected from business, sports, and academia.

(B) INITIAL MEMBERSHIP.—The initial nominating committee members shall be set forth in the governing corporate documents of the Authority.

(C) VACANCIES.—After the initial committee members are appointed in accordance with subparagraph (B), vacancies shall be filled by the Board pursuant to rules established by the Authority.

(2) CHAIR.—The chair of the nominating committee shall be selected by the nominating committee from among the members of the nominating committee.

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

(A) INITIAL MEMBERS.—The nominating committee shall select the initial members of the Board and the standing committees described in subsection (c).

(B) SUBSEQUENT MEMBERS.—The nominating committee shall recommend individuals to fill any vacancy on the Board or on such standing committees.

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

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

(2) An official or officer—

(A) of an equine industry representative; or

(B) who serves in a governance or policy-making capacity for an equine industry representative.

(3) An employee of, or an individual who has a business or commercial relationship with, an individual described in paragraph (1) or (2).

(4) An immediate family member of an individual described in paragraph (1) or (2).

(f) FUNDING.—

(1) INITIAL FUNDING.—

(A) IN GENERAL.—Initial funding to establish the Authority and underwrite its operations before the program effective date shall be provided by loans obtained by the Authority.

(B) BORROWING.—The Authority may borrow funds toward the funding of its operations.

(C) ANNUAL CALCULATION OF AMOUNTS REQUIRED.—

(i) IN GENERAL.—Not later than the date that is 90 days before the program effective date, and not later than November 1 each year thereafter, the Authority shall determine and provide to each State racing commission the estimated amount required from the State—

(I) to fund the State's proportionate share of the horseracing anti-doping and medication control program and the racetrack safety program for the next calendar year; and

(II) to liquidate the State's proportionate share of any loan or funding shortfall in the current calendar year and any previous calendar year.

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

(I) be based on—

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

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

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

(iii) REQUIREMENTS REGARDING BUDGETS OF AUTHORITY.—

(I) INITIAL BUDGET.—The initial budget of the Authority shall require the approval of ⅔ of the Board.

(II) SUBSEQUENT BUDGETS.—Any subsequent budget that exceeds the budget of the preceding calendar year by more than 5 percent shall require the approval of ⅔ of the Board.

(iv) RATE INCREASES.—

(I) IN GENERAL.—A proposed increase in the amount required under this subparagraph shall be reported to the Commission.

(II) NOTICE AND COMMENT.—The Commission shall publish in the Federal Register such a proposed increase and provide an opportunity for public comment.

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

(A) NOTICE OF ELECTION.—Any State racing commission that elects to remit fees pursuant to this subsection shall notify the Authority of such election not later than 60 days before the program effective date.

(B) REQUIREMENT TO REMIT FEES.—After a State racing commission makes a notification under subparagraph (A), the election shall remain in effect and the State racing commission shall be required to remit fees pursuant to this subsection according to a schedule established in rule developed by the Authority and approved by the Commission.

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

(D) DETERMINATION OF METHODS.—Each State racing commission shall determine, subject to the applicable laws, regulations, and contracts of the State, the method by which the requisite amount of fees, such as foal registration fees, sales contributions, starter fees, and track fees, and other fees on covered persons, shall be allocated, assessed, and collected.

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

(A) CALCULATION.—If a State racing commission does not elect to remit fees pursuant to

paragraph (2) or withdraws its election under such paragraph, the Authority shall, not less frequently than monthly, calculate the applicable fee per racing start multiplied by the number of racing starts in the State during the preceding month.

(B) ALLOCATION.—The Authority shall allocate equitably the amount calculated under subparagraph (A) collected among covered persons involved with covered horseraces pursuant to such rules as the Authority may promulgate.

(C) ASSESSMENT AND COLLECTION.—

(i) IN GENERAL.—The Authority shall assess a fee equal to the allocation made under subparagraph (B) and shall collect such fee according to such rules as the Authority may promulgate.

(ii) REMITTANCE OF FEES.—Covered persons described in subparagraph (B) shall be required to remit such fees to the Authority.

(D) LIMITATION.—A State racing commission that does not elect to remit fees pursuant to paragraph (2) or that withdraws its election under such paragraph shall not impose or col-

lect from any person a fee or tax relating to anti-doping and medication control or racetrack safety matters for covered horseraces.

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

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

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

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

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

SEC. 4. FEDERAL TRADE COMMISSION OVERSIGHT.

(a) IN GENERAL.—The Authority shall submit to the Commission, in accordance with such rules as the Commission may prescribe under section 553 of title 5, United States Code, any proposed rule, or proposed modification to a rule, of the Authority relating to—

(1) the bylaws of the Authority;

(2) a list of permitted and prohibited medications, substances, and methods, including allowable

limits of permitted medications, substances, and methods;

(3) laboratory standards for accreditation and protocols;

(4) standards for racing surface quality maintenance;

(5) racetrack safety standards and protocols;

(6) a program for injury and fatality data analysis;

(7) a program of research and education on safety, performance, and anti-doping and medication control;

(8) a description of safety, performance, and anti-doping and medication control rule violations applicable to covered horses and covered persons;

(9) a schedule of civil sanctions for violations;

(10) a process or procedures for disciplinary hearings; and

(11) a formula or methodology for determining assessments described in section 3(f).

(b) PUBLICATION AND COMMENT.—

(1) IN GENERAL.—The Commission shall—

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

(B) provide an opportunity for public comment.

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

(c) DECISION ON PROPOSED RULE OR MODIFICATION TO A RULE.—

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

(2) CONDITIONS.—The Commission shall approve a proposed rule or modification if the Commission finds that the proposed rule or modification is consistent with—

(A) this Act; and

(B) applicable rules approved by the Commission.

(3) REVISION OF PROPOSED RULE OR MODIFICATION.—

(A) IN GENERAL.—In the case of disapproval of a proposed rule or modification under this subsection, not later than 30 days

after the issuance of the disapproval, the Commission shall make recommendations to the Authority to modify the proposed rule or modification.

(B) RESUBMISSION.—The Authority may resubmit for approval by the Commission a proposed rule or modification that incorporates the modifications recommended under subparagraph (A).

(d) PROPOSED STANDARDS AND PROCEDURES.—

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

(2) NOTICE AND COMMENT.—The Commission shall publish in the Federal Register any such proposed rule, standard, or procedure and provide an opportunity for public comment.

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

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

(2) the integrity of covered horseraces and wagering on those horseraces.

SEC. 5. JURISDICTION OF THE COMMISSION AND THE HORSERACING INTEGRITY AND SAFETY AUTHORITY.

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

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

(2) exercise independent and exclusive national authority over—

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

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

(3) have safety, performance, and anti-doping and medication control authority over covered per-

sons similar to such authority of the State racing commissions before the program effective date.

(b) PREEMPTION.—The rules of the Authority promulgated in accordance with this Act shall preempt any provision of State law or regulation with respect to matters within the jurisdiction of the Authority under this Act, as limited by subsection (j). Nothing contained in this Act shall be construed to limit the authority of the Commission under any other provision of law.

(c) DUTIES.—

(1) IN GENERAL.—The Authority—

(A) shall develop uniform procedures and rules authorizing—

(i) access to offices, racetrack facilities, other places of business, books, records, and personal property of covered persons that are used in the care, treatment, training, and racing of covered horses;

(ii) issuance and enforcement of subpoenas and subpoenas duces tecum; and

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

(B) with respect to an unfair or deceptive act or practice described in section 10, may recommend that the Commission commence an enforcement action.

(2) APPROVAL OF COMMISSION.—The procedures and rules developed under paragraph (1)(A) shall be subject to approval by the Commission in accordance with section 4.

(d) REGISTRATION OF COVERED PERSONS WITH AUTHORITY.—

(1) IN GENERAL.—As a condition of participating in covered races and in the care, ownership, treatment, and training of covered horses, a covered person shall register with the Authority in accordance with rules promulgated by the Authority and approved by the Commission in accordance with section 4.

(2) AGREEMENT WITH RESPECT TO AUTHORITY RULES, STANDARDS, AND PROCEDURES.—Registration under this subsection shall include an agreement by the covered person to be subject to and comply with the rules, standards, and procedures developed and approved under subsection (c).

(3) COOPERATION.—A covered person registered under this subsection shall, at all times—

(A) cooperate with the Commission, the Authority, the anti-doping and medication control enforcement agency, and any respective designee, during any civil investigation; and

(B) respond truthfully and completely to the best of the knowledge of the covered person if questioned by the Commission, the Authority, the anti-doping and medication control enforcement agency, or any respective designee.

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

(e) ENFORCEMENT OF PROGRAMS.—

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

(A) AGREEMENT WITH USADA.—The Authority shall seek to enter into an agreement with the United States Anti-Doping Agency under which the Agency acts as the anti-doping and medication control enforcement agency under this Act for services consistent with the horseracing anti-doping and medication control program.

(B) AGREEMENT WITH OTHER ENTITY.—If the Authority and the United States Anti-

Doping Agency are unable to enter into the agreement described in subparagraph (A), the Authority shall enter into an agreement with an entity that is nationally recognized as being a medication regulation agency equal in qualification to the United States Anti-Doping Agency to act as the anti-doping and medication control enforcement agency under this Act for services consistent with the horseracing anti-doping and medication control program.

(C) NEGOTIATIONS.—Any negotiations under this paragraph shall be conducted in good faith and designed to achieve efficient, effective best practices for anti-doping and medication control and enforcement on commercially reasonable terms.

(D) ELEMENTS OF AGREEMENT.—Any agreement under this paragraph shall include a description of the scope of work, performance metrics, reporting obligations, budgets of the United States Anti-Doping Agency while acting as the anti-doping and medication control enforcement agency under this Act, a provision for the revision of the agreement to increase in the scope of work, as provided in subsection (k),

and any other matter the Authority considers appropriate.

(E) DUTIES AND POWERS OF ENFORCEMENT AGENCY.—The anti-doping and medication control enforcement agency under an agreement under this paragraph shall—

(i) serve as the independent anti-doping and medication control enforcement organization for covered horses, covered persons, and covered horseraces, implementing the anti-doping and medication control program on behalf of the Authority;

(ii) ensure that covered horses and covered persons are deterred from using or administering medications, substances, and methods in violation of the rules established in accordance with this Act;

(iii) implement anti-doping education, research, testing, compliance and adjudication programs designed to prevent covered persons and covered horses from using or administering medications, substances, and methods in violation of the rules established in accordance with this Act;

(iv) exercise the powers specified in section 6(c)(4) in accordance with that section; and

(v) implement and undertake any other responsibilities specified in the agreement.

(F) TERM AND EXTENSION.—

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

(ii) EXTENSION.—At the end of the 5-year period described in clause (i), the Authority may—

(I) extend the term of the initial agreement under this paragraph for such additional term as is provided by the rules of the Authority and consistent with this Act; or

(II) enter into an agreement meeting the requirements of this paragraph with an entity described by subparagraph (B) for such term as is

provided by such rules and consistent with this Act.

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

(A) STATE RACING COMMISSIONS.—

(i) RACETRACK SAFETY PROGRAM.—The Authority may enter into agreements with State racing commissions for services consistent with the enforcement of the racetrack safety program.

(ii) ANTI-DOPING AND MEDICATION CONTROL PROGRAM.—The anti-doping and medication control enforcement agency may enter into agreements with State racing commissions for services consistent with the enforcement of the anti-doping and medication control program.

(B) ELEMENTS OF AGREEMENTS.—Any agreement under this paragraph shall include a description of the scope of work, performance metrics, reporting obligations, budgets, and any other matter the Authority considers appropriate.

(3) ENFORCEMENT OF STANDARDS.—The Authority may coordinate with State racing commis-

sions and other State regulatory agencies to monitor and enforce racetrack compliance with the standards developed under paragraphs (1) and (2) of section 7(c).

(f) PROCEDURES WITH RESPECT TO RULES OF AUTHORITY.—

(1) ANTI-DOPING AND MEDICATION CONTROL.—

(A) IN GENERAL.—Recommendations for rules regarding anti-doping and medication control shall be developed in accordance with section 6.

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

(2) RACETRACK SAFETY.—Recommendations for rules regarding racetrack safety shall be developed by the racetrack safety standing committee of the Authority.

(g) SUBPOENA AND INVESTIGATORY AUTHORITY.—The Authority shall have subpoena and investigatory au-

thority with respect to civil violations committed under its jurisdiction.

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

(i) CIVIL ACTIONS.—

(1) IN GENERAL.—In addition to civil sanctions imposed under section 8, the Authority may commence a civil action against a covered person or racetrack that has engaged, is engaged, or is about to engage, in acts or practices constituting a violation of this Act or any rule established under this Act in the proper district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, to enforce any civil sanctions imposed under that section, and for all other relief to which the Authority may be entitled.

(2) INJUNCTIONS AND RESTRAINING ORDERS.—With respect to a civil action commenced under paragraph (1), upon a proper showing, a permanent

or temporary injunction or restraining order shall be granted without bond.

(j) LIMITATIONS ON AUTHORITY.—

(1) PROSPECTIVE APPLICATION.—The jurisdiction and authority of the Authority and the Commission with respect to the horseracing anti-doping and medication control program and the racetrack safety program shall be prospective only.

(2) PREVIOUS MATTERS.—

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

(B) STATE RACING COMMISSION.—With respect to conduct described in subparagraph (A), the applicable State racing commission shall retain authority until the final resolution of the matter.

(3) OTHER LAWS UNAFFECTED.—This Act shall not be construed to modify, impair, or restrict the operation of the general laws or regulations, as may be amended from time to time, of the United States, the States and their political subdivisions re-

lating to criminal conduct, cruelty to animals, matters unrelated to anti-doping, medication control and racetrack and racing safety of covered horses and covered races, and the use of medication in human participants in covered races.

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

(1) IN GENERAL.—A State racing commission or a breed governing organization for a breed of horses other than Thoroughbred horses may elect to have such breed be covered by this Act by the filing of a designated election form and subsequent approval by the Authority. A State racing commission may elect to have a breed covered by this Act for the applicable State only.

(2) ELECTION CONDITIONAL ON FUNDING MECHANISM.—A commission or organization may not make an election under paragraph (1) unless the commission or organization has in place a mechanism to provide sufficient funds to cover the costs of the administration of this Act with respect to the horses that will be covered by this Act as a result of the election.

(3) APPORTIONMENT.—The Authority shall apportion costs described in paragraph (2) in connec-

tion with an election under paragraph (1) fairly among all impacted segments of the horseracing industry, subject to approval by the Commission in accordance with section 4. Such apportionment may not provide for the allocation of costs or funds among breeds of horses.

SEC. 6. HORSERACING ANTI-DOPING AND MEDICATION CONTROL PROGRAM.

(a) PROGRAM REQUIRED.—

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

(2) CONSIDERATION OF OTHER BREEDS.—In developing the horseracing anti-doping and medication control program with respect to a breed of horse that is made subject to this Act by election of a State racing commission or the breed governing organization for such horse under section 5(k), the Authority shall consider the unique characteristics of such breed.

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

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

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

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

(4) To the extent consistent with this Act, consideration should be given to international anti-doping and medication control standards of the International Federation of Horseracing Authorities and the Principles of Veterinary Medical Ethics of the American Veterinary Medical Association.

(5) The administration of medications and treatment methods to covered horses should be based upon an examination and diagnosis that identifies an issue requiring treatment for which the medication or method represents an appropriate component of treatment.

(6) The amount of therapeutic medication that a covered horse receives should be the minimum necessary to address the diagnosed health concerns identified during the examination and diagnostic process.

(7) The welfare of covered horses, the integrity of the sport, and the confidence of the betting public require full disclosure to regulatory authorities regarding the administration of medications and treatments to covered horses.

(c) ACTIVITIES.—The following activities shall be carried out under the horseracing anti-doping and medication control program:

(1) STANDARDS FOR ANTI-DOPING AND MEDICATION CONTROL.—Not later than 120 days before the program effective date, the Authority shall issue, by rule—

(A) uniform standards for—

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

(ii) laboratory testing accreditation and protocols; and

(B) a list of permitted and prohibited medications, substances, and methods, including allowable limits of permitted medications, substances, and methods.

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

(3) AGREEMENT REQUIREMENTS.—The development of requirements with respect to agreements under section 5(e).

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

(A) CONTROL RULES, PROTOCOLS, ETC.—Except as provided in paragraph (5), the anti-doping and medication control program enforcement agency under section 5(e) shall, in consultation with the anti-doping and medication control standing committee of the Authority and consistent with international best practices,

develop and recommend anti-doping and medication control rules, protocols, policies, and guidelines for approval by the Authority.

(B) RESULTS MANAGEMENT.—The anti-doping and medication control enforcement agency shall conduct and oversee anti-doping and medication control results management, including independent investigations, charging and adjudication of potential medication control rule violations, and the enforcement of any civil sanctions for such violations. Any final decision or civil sanction of the anti-doping and medication control enforcement agency under this subparagraph shall be the final decision or civil sanction of the Authority, subject to review in accordance with section 9.

(C) TESTING.—The anti-doping enforcement agency shall perform and manage test distribution planning (including intelligence-based testing), the sample collection process, and in-competition and out-of-competition testing (including no-advance-notice testing).

(D) TESTING LABORATORIES.—The anti-doping and medication control enforcement agency shall accredit testing laboratories based

upon the standards established under this Act, and shall monitor, test, and audit accredited laboratories to ensure continuing compliance with accreditation standards.

(5) ANTI-DOPING AND MEDICATION CONTROL STANDING COMMITTEE.—The anti-doping and medication control standing committee shall, in consultation with the anti-doping and medication control enforcement agency, develop lists of permitted and prohibited medications, methods, and substances for recommendation to, and approval by, the Authority. Any such list may prohibit the administration of any substance or method to a horse at any time after such horse becomes a covered horse if the Authority determines such substance or method has a long-term degrading effect on the soundness of a horse.

(d) PROHIBITION.—Except as provided in subsections (e) and (f), the horseracing anti-doping and medication control program shall prohibit the administration of any prohibited or otherwise permitted substance to a covered horse within 48 hours of its next racing start, effective as of the program effective date.

(e) ADVISORY COMMITTEE STUDY AND REPORT.—

(1) IN GENERAL.—Not later than the program effective date, the Authority shall convene an advi-

sory committee comprised of horseracing anti-doping and medication control industry experts, including a member designated by the anti-doping and medication control enforcement agency, to conduct a study on the use of furosemide on horses during the 48-hour period before the start of a race, including the effect of furosemide on equine health and the integrity of competition and any other matter the Authority considers appropriate.

(2) REPORT.—Not later than three years after the program effective date, the Authority shall direct the advisory committee convened under paragraph (1) to submit to the Authority a written report on the study conducted under that paragraph that includes recommended changes, if any, to the prohibition in subsection (d).

(3) MODIFICATION OF PROHIBITION.—

(A) IN GENERAL.—After receipt of the report required by paragraph (2), the Authority may, by unanimous vote of the Board of the Authority, modify the prohibition in subsection (d) and, notwithstanding subsection (f), any such modification shall apply to all States beginning on the date that is three years after the program effective date.

(B) CONDITION.—In order for a unanimous vote described in subparagraph (A) to effect a modification of the prohibition in subsection (d), the vote must include unanimous adoption of each of the following findings:

(i) That the modification is warranted.

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

(iii) That furosemide has no performance enhancing effect on individual horses.

(iv) That public confidence in the integrity and safety of racing would not be adversely affected by the modification.

(f) EXEMPTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), only during the three-year period beginning on the program effective date, a State racing commission may submit to the Authority, at such time and in such manner as the Authority may require, a request for an exemption from the prohibition in subsection (d) with respect to the use of furosemide on covered horses during such period.

(2) EXCEPTIONS.—An exemption under paragraph (1) may not be requested for—

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

(B) covered horses competing in stakes races.

(3) CONTENTS OF REQUEST.—A request under paragraph (1) shall specify the applicable State racing commission's requested limitations on the use of furosemide that would apply to the State under the horseracing anti-doping and medication control program during such period. Such limitations shall be no less restrictive on the use and administration of furosemide than the restrictions set forth in State's laws and regulations in effect as of September 1, 2020.

(4) GRANT OF EXEMPTION.—Subject to subsection (e)(3), the Authority shall grant an exemption requested under paragraph (1) for the remainder of such period and shall allow the use of furosemide on covered horses in the applicable State, in accordance with the requested limitations.

(g) BASELINE ANTI-DOPING AND MEDICATION CONTROL RULES.—

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

(A) constitute the initial rules of the horseracing anti-doping and medication control program; and

(B) except as exempted pursuant to subsections (e) and (f), remain in effect at all times after the program effective date.

(2) BASELINE ANTI-DOPING MEDICATION CONTROL RULES DESCRIBED.—

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

(i) The lists of permitted and prohibited substances (including drugs, medications, and naturally occurring substances and synthetically occurring substances) in effect for the International Federation of Horseracing Authorities, including the International Federation of Horseracing Authorities International Screening Limits for urine, dated May 2019, and the International Federation of Horseracing Authorities International Screening Limits for plasma, dated May 2019.

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

(iii) The Association of Racing Commissioners International out-of-competition testing standards, Model Rules of Racing (version 9.2).

(iv) The Association of Racing Commissioners International penalty and multiple medication violation rules, Model Rules of Racing (version 6.2).

(B) CONFLICT OF RULES.—In the case of a conflict among the rules described in subparagraph (A), the most stringent rule shall apply.

(3) MODIFICATIONS TO BASELINE RULES.—

(A) DEVELOPMENT BY ANTI-DOPING AND MEDICATION CONTROL STANDING COMMITTEE.—The anti-doping and medication control standing committee, in consultation with the anti-doping and medication control enforcement agency, may develop and submit to the Authority for approval by the Authority proposed modifications to the baseline anti-doping and medication control rules.

(B) AUTHORITY APPROVAL.—If the Authority approves a proposed modification under this paragraph, the proposed modification shall be submitted to and considered by the Commission in accordance with section 4.

(C) ANTI-DOPING AND MEDICATION CONTROL ENFORCEMENT AGENCY VETO AUTHORITY.—The Authority shall not approve any proposed modification that renders an anti-doping and medication control rule less stringent than the baseline anti-doping and medication control rules described in paragraph (2) (including by increasing permitted medication thresholds, adding permitted medications, removing prohibited medications, or weakening enforcement mechanisms) without the approval of the anti-doping and medication control enforcement agency.

SEC. 7. RACETRACK SAFETY PROGRAM.

(a) ESTABLISHMENT AND CONSIDERATIONS.—

(1) IN GENERAL.—Not later than the program effective date, and after notice and an opportunity for public comment in accordance with section 4, the Authority shall establish a racetrack safety program applicable to all covered horses, covered persons, and

covered horseraces in accordance with the registration of covered persons under section 5(d).

(2) CONSIDERATIONS IN DEVELOPMENT OF SAFETY PROGRAM.—In the development of the horseracing safety program for covered horses, covered persons, and covered horseraces, the Authority and the Commission shall take into consideration existing safety standards including the National Thoroughbred Racing Association Safety and Integrity Alliance Code of Standards, the International Federation of Horseracing Authority's International Agreement on Breeding, Racing, and Wagering, and the British Horseracing Authority's Equine Health and Welfare program.

(b) ELEMENTS OF HORSERACING SAFETY PROGRAM.—The horseracing safety program shall include the following:

(1) A set of training and racing safety standards and protocols taking into account regional differences and the character of differing racing facilities.

(2) A uniform set of training and racing safety standards and protocols consistent with the humane treatment of covered horses, which may include lists

of permitted and prohibited practices or methods (such as crop use).

(3) A racing surface quality maintenance system that—

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

(B) may include requirements for track surface design and consistency and established standard operating procedures related to track surface, monitoring, and maintenance (such as standardized seasonal assessment, daily tracking, and measurement).

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

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

(6) The undertaking of investigations at racetrack and non-racetrack facilities related to safety violations.

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

(8) A schedule of civil sanctions for violations.

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

(10) Management of violation results.

(11) Programs relating to safety and performance research and education.

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

(c) ACTIVITIES.—The following activities shall be carried out under the racetrack safety program:

(1) STANDARDS FOR RACETRACK SAFETY.—The development, by the racetrack safety standing committee of the Authority in section 3(c)(2) of uniform standards for racetrack and horseracing safety.

(2) STANDARDS FOR SAFETY AND PERFORMANCE ACCREDITATION.—

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

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

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

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

(B) MODIFICATIONS.—

(i) IN GENERAL.—The Authority may modify rules establishing the standards issued under subparagraph (A), as the Authority considers appropriate.

(ii) NOTICE AND COMMENT.—The Commission shall publish in the Federal Register any proposed rule of the Authority, and provide an opportunity for public comment with respect to, any modification under clause (i) in accordance with section 4.

(C) EXTENSION OF PROVISIONAL OR INTERIM ACCREDITATION.—The Authority may, by rule in accordance with section 4, extend provisional or interim accreditation to a racetrack accredited by the National Thoroughbred Racing Association Safety and Integrity Alli-

ance on a date before the program effective date.

(3) NATIONWIDE SAFETY AND PERFORMANCE DATABASE.—

(A) IN GENERAL.—Not later than one year after the program effective date, and after notice and an opportunity for public comment in accordance with section 4, the Authority, in consultation with the Commission, shall develop and maintain a nationwide database of racehorse safety, performance, health, and injury information for the purpose of conducting an epidemiological study.

(B) COLLECTION OF INFORMATION.—In accordance with the registration of covered persons under section 5(d), the Authority may require covered persons to collect and submit to the database described in subparagraph (A) such information as the Authority may require to further the goal of increased racehorse welfare.

SEC. 8. RULE VIOLATIONS AND CIVIL SANCTIONS.

(a) DESCRIPTION OF RULE VIOLATIONS.—

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

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

(2) ELEMENTS.—The description of rule violations established under paragraph (1) may include the following:

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

(i) the presence of a prohibited substance or method in a sample or the use of a prohibited substance or method;

(ii) the presence of a permitted substance in a sample in excess of the amount allowed by the horseracing anti-doping and medication control program; and

(iii) the use of a permitted method in violation of the applicable limitations established under the horseracing anti-doping and medication control program.

(B) Attempted use of a prohibited substance or method on a covered horse.

(C) Possession of any prohibited substance or method.

(D) Attempted possession of any prohibited substance or method.

(E) Administration or attempted administration of any prohibited substance or method on a covered horse.

(F) Refusal or failure, without compelling justification, to submit a covered horse for sample collection.

(G) Failure to cooperate with the Authority or an agent of the Authority during any investigation.

(H) Failure to respond truthfully, to the best of a covered person's knowledge, to a question of the Authority or an agent of the Authority with respect to any matter under the jurisdiction of the Authority.

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

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

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

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

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

(K) Assisting, encouraging, aiding, abetting, conspiring, covering up, or any other type of intentional complicity involving a safety, performance, or anti-doping and medication control rule violation or the violation of a period of suspension or eligibility.

(L) Threatening or seeking to intimidate a person with the intent of discouraging the person from the good faith reporting to the Authority, an agent of the Authority or the Commission, or the anti-doping and medication control enforcement agency under section 5(e), of information that relates to—

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

(ii) alleged noncompliance with a safety, performance, or anti-doping and medication control rule.

(b) TESTING LABORATORIES.—

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

(A) standards of accreditation for laboratories involved in testing samples from covered horses;

(B) the process for achieving and maintaining accreditation; and

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

(2) ADMINISTRATION.—The accreditation of laboratories and the conduct of audits of accredited laboratories to ensure compliance with Authority rules shall be administered by the anti-doping and medication control enforcement agency. The anti-doping and medication control enforcement agency shall have the authority to require specific test samples to be directed to and tested by laboratories having special expertise in the required tests.

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

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

(4) SELECTION OF LABORATORIES.—

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

(B) SELECTION BY THE AUTHORITY.—If a State racing commission does not select an accredited laboratory under subparagraph (A), the Authority shall select such a laboratory to test samples taken in the State concerned.

(c) RESULTS MANAGEMENT AND DISCIPLINARY PROCESS.—

(1) IN GENERAL.—Not later than 120 days before the program effective date, the Authority shall establish in accordance with section 4—

(A) rules for safety, performance, and anti-doping and medication control results management; and

(B) the disciplinary process for safety, performance, and anti-doping and medication control rule violations.

(2) ELEMENTS.—The rules and process established under paragraph (1) shall include the following:

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

(B) Hearing procedures.

(C) Standards for burden of proof.

(D) Presumptions.

(E) Evidentiary rules.

(F) Appeals.

(G) Guidelines for confidentiality and public reporting of decisions.

(3) DUE PROCESS.—The rules established under paragraph (1) shall provide for adequate due process, including impartial hearing officers or tribunals commensurate with the seriousness of the alleged safety, performance, or anti-doping and medication control rule violation and the possible civil sanctions for such violation.

(d) CIVIL SANCTIONS.—

(1) IN GENERAL.—The Authority shall establish uniform rules, in accordance with section 4, imposing civil sanctions against covered persons or covered horses for safety, performance, and anti-doping and medication control rule violations.

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

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

(B) be designed to ensure fair and transparent horseraces; and

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

(3) SEVERITY.—The civil sanctions under paragraph (1) may include—

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

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

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

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

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

(b) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

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

(2) NATURE OF REVIEW.—

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

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

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

(iii) the final civil sanction of the Authority was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(B) CONDUCT OF HEARING.—An administrative law judge shall conduct a hearing under this subsection in such a manner as the Commission may specify by rule, which shall conform to section 556 of title 5, United States Code.

(3) DECISION BY ADMINISTRATIVE LAW JUDGE.—

(A) IN GENERAL.—With respect to a matter reviewed under this subsection, an administrative law judge—

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

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

(iii) may make any finding or conclusion that, in the judgment of the administrative law judge, is proper and based on the record.

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

(c) REVIEW BY COMMISSION.—

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

(2) APPLICATION FOR REVIEW.—

(A) IN GENERAL.—The Authority or a person aggrieved by a decision issued under subsection (b)(3) may petition the Commission for review of such decision by filing an application for review not later than 30 days after the date on which the administrative law judge issues the decision.

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

(C) DISCRETION OF COMMISSION.—

(i) IN GENERAL.—A decision with respect to whether to grant an application for review under subparagraph (A) is subject to the discretion of the Commission.

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

(I) a prejudicial error was committed in the conduct of the proceeding; or

(II) the decision involved—

(aa) an erroneous application of the anti-doping and medication control or racetrack safety rules approved by the Commission; or

(bb) an exercise of discretion or a decision of law or policy that warrants review by the Commission.

(3) NATURE OF REVIEW.—

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

(i) affirm, reverse, modify, set aside, or remand for further proceedings, in whole or in part, the decision of the administrative law judge; and

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

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

conclusions of law made by the administrative law judge.

(C) CONSIDERATION OF ADDITIONAL EVIDENCE.—

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

(ii) MOTION BY A PARTY.—

(I) IN GENERAL.—A party may file a motion to consider additional evidence at any time before the issuance of a decision by the Commission, which shall show, with particularity, that—

(aa) such additional evidence is material; and

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

(II) PROCEDURE.—The Commission may—

(aa) accept or hear additional evidence; or

(bb) remand the proceeding to the administrative law judge

for the consideration of additional evidence.

(d) STAY OF PROCEEDINGS.—Review by an administrative law judge or the Commission under this section shall not operate as a stay of a final civil sanction of the Authority unless the administrative law judge or Commission orders such a stay.

SEC. 10. UNFAIR OR DECEPTIVE ACTS OR PRACTICES.

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

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

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

(B) any other substance or method the Authority determines has a long-term degrading effect on the soundness of the covered horse; and

(2) fails to disclose to the buyer the administration of the bisphosphonate or other substance or method described in paragraph (1)(B).

SEC. 11. STATE DELEGATION; COOPERATION.

(a) STATE DELEGATION.—

(1) IN GENERAL.—The Authority may enter into an agreement with a State racing commission to implement, within the jurisdiction of the State racing commission, a component of the racetrack safety program or, with the concurrence of the anti-doping and medication control enforcement agency under section 5(e), a component of the horseracing anti-doping and medication control program, if the Authority determines that the State racing commission has the ability to implement such component in accordance with the rules, standards, and requirements established by the Authority.

(2) IMPLEMENTATION BY STATE RACING COMMISSION.—A State racing commission or other appropriate regulatory body of a State may not implement such a component in a manner less restrictive than the rule, standard, or requirement established by the Authority.

(b) COOPERATION.—To avoid duplication of functions, facilities, and personnel, and to attain closer coordination and greater effectiveness and economy in administration of Federal and State law, where conduct by any person subject to the horseracing medication control program or the racetrack safety program may involve both

a medication control or racetrack safety rule violation and violation of Federal or State law, the Authority and Federal or State law enforcement authorities shall cooperate and share information.

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