

**H.R.1733 -- Interstate Horseracing Improvement Act of 2011 (Introduced in House - IH)**

HR 1733 IH

112th CONGRESS  
1st Session  
**H. R. 1733**

To amend the Interstate Horseracing Act of 1978 to prohibit the use of performance-enhancing drugs in horseracing, and for other purposes.

**IN THE HOUSE OF REPRESENTATIVES**

**May 4, 2011**

Mr. WHITFIELD (for himself, Mr. CHANDLER, Ms. SCHAKOWSKY, and Mr. PITTS) introduced the following bill; which was referred to the Committee on Energy and Commerce

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**A BILL**

To amend the Interstate Horseracing Act of 1978 to prohibit the use of performance-enhancing drugs in horseracing, 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 `Interstate Horseracing Improvement Act of 2011'.

**SEC. 2. FINDINGS.**

Congress finds the following:

- (1) Congress enacted the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) to regulate interstate commerce with respect to parimutuel wagering on horseracing in order to protect and further the horseracing industry of the United States.
- (2) The horseracing industry represents approximately \$40,000,000,000 to the United States economy annually and generates nearly 400,000 domestic jobs.
- (3) The use of performance-enhancing drugs in horseracing adversely affects interstate commerce, creates unfair competition, deceives horse buyers and the wagering public, weakens the breed of the American Thoroughbred, is detrimental to international sales of the American Thoroughbred, and threatens the safety and welfare of horses and jockeys.

(4) The use of performance-enhancing drugs in horseracing is widespread in the United States, where no uniform regulations exist with respect to the use of, and testing for, performance-enhancing drugs in interstate horseracing.

(5) The use of performance-enhancing drugs in horseracing is not permitted in most jurisdictions outside the United States. In the internationally competitive sport of horseracing, the United States stands alone in its permissive use of performance-enhancing drugs.

(6) The use of performance-enhancing drugs is illegal in the United States in every sport other than horseracing.

(7) To protect and further the horseracing industry of the United States, it is necessary to prohibit the use of performance-enhancing drugs in interstate horseracing.

### **SEC. 3. PROHIBITIONS ON USE OF PERFORMANCE-ENHANCING DRUGS.**

(a) In General- The Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) is amended--

(1) by redesignating section 9 as section 11; and

(2) by inserting after section 8 the following:

### **SEC. 9. PROHIBITIONS ON USE OF PERFORMANCE-ENHANCING DRUGS.**

(a) Definitions- In this section:

(1) ACCREDITED THIRD PARTY CONFORMITY ASSESSMENT BODY- The term 'accredited third party conformity assessment body' means a testing laboratory that has an accreditation--

(A) meeting International Organization for Standardization/International Electrotechnical Commission standard 17025:2005 entitled 'General Requirements for the Competence of Testing and Calibration Laboratories' (or any successor standard);

(B) from an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement; and

(C) that includes testing for performance-enhancing drugs within the scope of the accreditation.

(2) PERFORMANCE-ENHANCING DRUG- The term 'performance-enhancing drug'--

(A) means any substance capable of affecting the performance of a horse at any time by acting on the nervous system, cardiovascular system, respiratory system, digestive system, urinary system, reproductive system, musculoskeletal system, blood system, immune system (other than licensed vaccines against infectious agents), or endocrine system of the horse; and

` (B) includes the substances listed in the Alphabetized Listing of Drugs in the January 2010 revision of the Association of Racing Commissioners International, Inc., publication entitled ` Uniform Classification Guidelines for Foreign Substances'.

` (b) Prohibition on Entering Horses Under the Influence of Performance-Enhancing Drugs in Races Subject to Interstate Off-Track Wagering- A person may not--

` (1) enter a horse in a race that is subject to an interstate off-track wager if the person knows the horse is under the influence of a performance-enhancing drug; or

` (2) knowingly provide a horse with a performance-enhancing drug if the horse, while under the influence of the drug, will participate in a race that is subject to an interstate off-track wager.

` (c) Regulations of the Host Racing Association Banning Performance-Enhancing Drugs- A host racing association may not conduct a horserace that is the subject of an interstate off-track wager unless the host racing association has a policy in place that--

` (1) bans any person from providing a horse with a performance-enhancing drug if the horse will participate in such a horserace while under the influence of the drug;

` (2) bans the racing of a horse that is under the influence of a performance-enhancing drug;

` (3) requires, for each horserace that is the subject of an interstate off-track wager, that an accredited third party conformity assessment body test for any performance-enhancing drug--

` (A) the first-place horse in the race; and

` (B) one additional horse, to be randomly selected from the other horses participating in the race; and

` (4) requires the accredited third party conformity assessment body performing tests described in paragraph (3) to report any test results demonstrating that a horse may participate, or may have participated, in a horserace that is the subject of an interstate off-track wager while under the influence of a performance-enhancing drug--

` (A) to the Federal Trade Commission; and

` (B) if the host racing commission has entered into an agreement under subsection (e), to the host racing commission.

` (d) Penalties-

` (1) CIVIL PENALTIES-

` (A) IN GENERAL- A person that provides a horse with a performance-enhancing drug or races a horse in violation of subsection (b) shall be--

` (i) for the first such violation--

` (I) subject to a civil penalty of not less than \$5,000; and

` (II) suspended for a period of not less than 180 days from all activities relating to any horserace that is the subject of an interstate off-track wager;

` (ii) for the second such violation--

` (I) subject to a civil penalty of not less than \$20,000; and

` (II) suspended for a period of not less than 1 year from all activities relating to any horserace that is the subject of an interstate off-track wager; and

` (iii) for the third or subsequent such violation--

` (I) subject to a civil penalty of not less than \$50,000; and

` (II) permanently banned from all activities relating to any horserace that is the subject of an interstate off-track wager.

` (B) HORSERACING ACTIVITIES- For purposes of subparagraph (A), activities relating to a horserace that is the subject of an interstate off-track wager include being physically present at any race track at which any such horserace takes place, placing a wager on any such horserace, and entering a horse in any such horserace.

` (C) PAYMENT OF CIVIL PENALTIES- A civil penalty imposed under this paragraph shall be paid to the United States without regard to whether the imposition of the penalty results from the initiation of a civil action pursuant to section 10.

` (2) SUSPENSION OF HORSES- A horse that is provided with a performance-enhancing drug or is raced in violation of subsection (b) shall--

` (A) for the first such violation, be suspended for a period of not less than 180 days from racing in any horserace that is the subject of an interstate off-track wager;

` (B) for the second such violation, be suspended for a period of not less than 1 year from racing in any horserace that is the subject of an interstate off-track wager; and

` (C) for the third or subsequent such violation, be suspended for a period of not less than 2 years from racing in any horserace that is the subject of an interstate off-track wager.

` (3) VIOLATIONS IN MULTIPLE STATES- A person shall be subject to a penalty described in clause (ii) or (iii) of paragraph (1)(A), and a horse shall be subject to suspension under subparagraph (B) or (C) of paragraph (2), for a second or subsequent violation of subsection (b) without regard to whether the prior violation and the second or subsequent violation occurred in the same State.

` (e) Agreements for Enforcement by Host Racing Commissions-

` (1) IN GENERAL- The Federal Trade Commission may enter into an agreement with a host racing commission under which the host racing commission agrees to enforce the provisions of this section with respect to horseraces that are the subject of interstate off-track wagers in the host State.

` (2) CONDITIONAL AVAILABILITY OF CIVIL PENALTIES TO HOST RACING COMMISSIONS- If a host racing commission agrees to enforce the provisions of this section pursuant to an agreement under paragraph (1), any amounts received by the United States as a result of a civil penalty imposed under subsection (d)(1) with respect to a horserace that occurred in the State in which the host racing commission operates shall be available to the host racing commission, without further appropriation and until expended, to cover the costs incurred by the host racing commission in enforcing the provisions of this section.

` (f) Enforcement by the Federal Trade Commission-

` (1) IN GENERAL- The Federal Trade Commission shall enforce the provisions of this section--

` (A) with respect to horseraces that are the subject of interstate off-track wagers that occur--

` (i) in any State in which the host racing commission does not enter into an agreement under subsection (e); and

` (ii) in any State in which the host racing commission has entered into an agreement under subsection (e) if the Federal Trade Commission determines the host racing commission is not adequately enforcing the provisions of this section; and

` (B) with respect to violations of subsection (b) by a person, or with respect to a horse, in multiple States.

` (2) UNFAIR OR DECEPTIVE ACT OR PRACTICE; ACTIONS BY FEDERAL TRADE COMMISSION- In cases in which the Federal Trade Commission enforces the provisions of this section pursuant to paragraph (1)--

` (A) a violation of a prohibition described in subsection (b) or (c) shall be treated as a violation of a rule defining an unfair or deceptive act or practice described under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)); and

` (B) except as provided in paragraph (3), the Federal Trade Commission shall enforce the provisions of this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.

` (3) ENFORCEMENT WITH RESPECT TO NONPROFIT ORGANIZATIONS- Notwithstanding any provision of the Federal Trade Commission Act (15 U.S.C. 41 et seq.), the Federal Trade Commission shall have the authority to enforce the provisions of this section pursuant to paragraph (1) with respect to organizations that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and that are exempt from taxation under section 501(a) of such Code.

` (g) Rulemaking- The Federal Trade Commission shall prescribe such rules as may be necessary to carry out the provisions of this section in accordance with the provisions of section 553 of title 5, United States Code.

` (h) Effect on State Laws- Nothing in this section preempts a State from adopting or enforcing a law, policy, or regulation prohibiting the use of performance-enhancing drugs in horseracing to the extent that the law, policy, or regulation imposes additional requirements or higher penalties than are provided for under this section.

## **` SEC. 10. PRIVATE RIGHT OF ACTION FOR CERTAIN VIOLATIONS.**

` Notwithstanding sections 6 and 7, in any case in which a person has reason to believe that an interest of that person is threatened or adversely affected by the engagement of another person in a practice that violates a provision of section 9 or a rule prescribed under section 9, the person may bring a civil action in an appropriate district court of the United States or other court of competent jurisdiction--

` (1) to enjoin the practice;

` (2) to enforce compliance with the provision or rule;

` (3) to enforce the penalties provided for under section 9(d);

` (4) to obtain damages or restitution, including court costs and reasonable attorney and expert witness fees; and

` (5) to obtain such other relief as the court considers appropriate.'.

(b) Effective Date- The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and apply with respect to horseraces occurring on or after that date.

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