



MEMORANDUM

January 24, 2020

To: Subcommittee on Consumer Protection and Commerce Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Hearing on “Legislation to Promote the Health and Safety of Racehorses”

On **Tuesday, January 28, 2020, at 10:30 a.m. in room 2322 of the Rayburn House Office Building**, the Subcommittee on Consumer Protection and Commerce will hold a legislative hearing entitled, “Legislation to Promote the Health and Safety of Racehorses.”

I. BACKGROUND

Horseracing is one of the most popular sports in the United States. It can also be dangerous for racehorses and jockeys. In 2018 alone, nearly 500 Thoroughbred racehorses died as a result of injuries sustained participating in a race in the United States.¹ Racehorses in North America suffer injury or death at a rate 2.5 to five times higher than the rest of the world.²

Recent fatalities at California’s Santa Anita Park generated renewed focus on the safety of the sport.³ From July 1, 2018, through November 30, 2019, 56 horses died at Santa Anita.⁴ In March 2019, Santa Anita announced a series of changes to improve horse safety, including a “zero tolerance” policy for race day use of many medications.⁵ Despite this policy change, horse

¹ The Jockey Club, *Supplemental Tables of Equine Injury Database Statistics for Thoroughbreds* (jockeyclub.com/pdfs/eid_10_year_tables.pdf) (accessed Dec. 18, 2019).

² *Drug Reform in U.S. Horse Racing Faces Obstacles*, Reuters (Oct. 30, 2019) (www.reuters.com/article/us-horseracing-legislation/drug-reform-in-u-s-horse-racing-faces-obstacles-idUSKBN1X9222).

³ *Another Horse’s Death Overshadows Vino Rosso’s Win at Breeders’ Cup Classic*, New York Times (Nov. 2, 2019).

⁴ *3 Horses Die in 3 Days at Santa Anita, Prompting Fresh Criticism of Racetrack*, New York Times (Jan. 20, 2020).

⁵ *Id.*; *Governor Gavin Newsom Calls for Santa Anita Park to Close for Investigation into Horse Deaths*, ABC News (June 11, 2019) (abcnews.go.com/US/santa-anita-continue-racing-reforms-working-spokesman/story?id=63605586).

deaths continue to occur, including five horses deaths already this year.⁶ An inquiry by the Los Angeles County District Attorney’s Office concluded that there was no criminal wrongdoing connected to the deaths, but offered a series of recommendations to improve safety at California racetracks.⁷

Use of performance enhancing drugs (PEDs) and therapeutic medications may contribute to horseracing deaths. The Racing Medication & Testing Consortium, a group of 23 major horseracing industry stakeholders responsible for authorizing research related to equine⁸ medication and testing, has published thirty approved medications for racehorses, including sedatives, pain killers, and muscle relaxants.⁹ Some equine trainers and veterinarians assert that these medications improve the health and welfare of the horse, making the sport safer.¹⁰ Others claim that these drugs can harm the long-term health of the horse and mask minor ailments that could become catastrophic injuries that ultimately lead to death.¹¹ Further, the use of PEDs may create an uneven playing field for competitors and gamblers.¹²

Nearly all racehorses in the United States are administered two substances — Lasix and phenylbutazone.¹³ Lasix can be used to treat exercise-induced pulmonary hemorrhage (EIPH), which occurs when horses bleed from the lungs as a result of physical exertion.¹⁴ Lasix is also a diuretic that causes horses to lose approximately 25 lbs. of water weight prior to a race, creating a competitive racing advantage.¹⁵ Lasix will be banned in stake races by Churchill Downs,

⁶ See note 4.

⁷ *Investigation into Horse Deaths at Santa Anita Finds No Unlawful Conduct*, Los Angeles Times (Dec. 19, 2019).

⁸ The term “equine” is used interchangeably with “horse” and “horse-related.”

⁹ *Should Racehorses Be Medicated?*, NPR (June 5, 2019) (www.npr.org/2019/06/05/729344390/should-racehorses-be-medicated).

¹⁰ *Major Tracks to Ban Race-Day Use of Anti-Bleeding Medication Lasix*, NBC Sports (Apr. 18, 2019); American Association of Equine Practitioners, *Statement from President Dr. Jeff Berk about the Prohibition of Race-Day Furosemide by U.S. Racing Coalition* (Apr. 19, 2019) (aaep.org/news/statement-president-dr-jeff-berk-about-prohibition-race-day-furosemide-us-racing-coalition).

¹¹ *Is Horse Racing ‘Addicted to Drugs’ as Critics Charge? Necropsies Reveal Strong Clues*, Pasadena Star-News (Apr. 12, 2019).

¹² Coalition for Horse Racing Integrity, *Why Support Coalition for Horseracing Integrity*, (horseracingintegrity.com/Default.asp?page=WHY) (accessed Jan. 22, 2020).

¹³ See note 9.

¹⁴ *The Science and Controversy Behind Horse Racing’s Most Popular Race Day Drug*, Inside Science (June 7, 2018) (www.insidescience.org/news/science-and-controversy-behind-horse-racing%E2%80%99s-most-popular-race-day-drug).

¹⁵ *Id.*

Pimlico, and Belmont Park, the hosts of the Triple Crown races, and other major race tracks in a voluntary program that will be phased in over the next two years.¹⁶

The use of phenylbutazone, or “bute,” may be tied to health issues in racehorses. According to a recent study, the use of phenylbutazone, a pain relieving anti-inflammatory, may mask chronic, possibly undetected underlying damage, injury, or soreness.¹⁷ A horse continuing to run with these ailments could exacerbate the underlying condition, potentially resulting in a life-threatening injury.¹⁸

Horseracing has no overall governing body. The sport is regulated independently by each of the 38 states in which the sport is legal.¹⁹ States differ on regulation when it comes to the types and dosage of medications, approved drug testing, laboratory accreditation, and sanctions for violations.²⁰

II. SUMMARY OF H.R. 1754, THE “HORSERACING INTEGRITY ACT OF 2019”

Reps. Tonko (D-NY) and Barr (R-KY) introduced the Horseracing Integrity Act of 2019, which now has more than 225 cosponsors.

In summary, H.R. 1754:

- Establishes the independent Horseracing Anti-Doping and Medication Control Authority (HADA), comprising representatives from industry and the U.S. Anti-Doping Agency (USADA), to develop and administer an anti-doping and medication control program. The program must include a list of prohibited and permitted substances and methods, programs for testing (both in-competition and out of competition), investigations of anti-doping rule violations, and laboratory accreditation;
- Grants the Federal Trade Commission (FTC) oversight authority over HADA. The FTC’s oversight responsibilities include administering the notice and comment period for HADA’s proposed rules and sanctions, granting final approval to such proposed rules and sanctions, and adjudicating any appeals;

¹⁶ *Major Horse Racing Tracks Agree to Phase Out Use of Race-Day Lasix*, Los Angeles Times (Apr. 18, 2019).

¹⁷ *Study Finds Statistical Relationship Between Pre-Race Bute and Injury in South American Runners*, Paulick Report (Dec. 3, 2019) (www.paulickreport.com/horse-care-category/study-finds-statistical-relationship-between-pre-race-bute-and-injury-in-south-american-runners/).

¹⁸ *Id.*

¹⁹ *See* note 2.

²⁰ *Id.*

- Broadly covers: (1) any Thoroughbred, Quarter, or Standardbred Horse; (2) trainers, owners, veterinarians, and others engaged in the care, training, or racing of such horses; and (3) any horserace that has a substantial relation to interstate commerce, including any horserace that is the subject of interstate off-track wagers; and
- Specifically mandates that HADA’s anti-doping program prohibit the administration of any prohibited or otherwise permitted substance within 24 hours of its next racing start (race-day drug ban). While H.R. 1754 does not explicitly ban Lasix or phenylbutazone, these drugs could fall within the scope of the race-day drug ban as either a “prohibited substance” or an “otherwise permitted substance.”

III. WITNESSES

The following witnesses have been invited to testify:

Dr. Kathleen M. Anderson

Equine Veterinarian

Joseph A. De Francis

Chairman

National Horseracing Advisory Council of the Humane Society of the United States

Dennis A. Drazin

Chairman and CEO

Darby Development

Operator

Monmouth Park Racetrack

Marty Irby

Executive Director

Animal Wellness Action

William M. Lear, Jr.

Vice Chairman

The Jockey Club

Edward J. Martin

President and CEO

Association of Racing Commissioners International, Inc.

Christopher J. McCarron

Hall of Fame Jockey, Retired