



Thoroughbred Horseracing Integrity Act of 2015

Introduction

Legislation has been introduced in the last several Congresses to regulate the use of drugs and medications in racing at the federal level.

The Thoroughbred Horseracing Integrity Act of 2015 (H.R. 3084) was introduced on July 16, 2015 by Representatives Andy Barr (R-KY) and Paul Tonko (D-NY) and is supported by segments of the racing industry.

House Bill

The Thoroughbred Horseracing Integrity Act would:

- Authorize the U.S. Anti-Doping Agency (USADA) to organize an independent anti-doping authority to be in charge of the use of drugs, medications and other practices in Thoroughbred horseracing.
- Designate that organization as the Thoroughbred Horseracing Anti-Doping Authority (THADA or the Authority), which will be composed of eleven members, including the chief operating officer of USADA, five individuals representing USADA, and five individuals appointed by USADA from the Thoroughbred industry. USADA has complete discretion in making these appointments.
- Give THADA the authority to draft, adopt and enforce regulations applicable to racing with respect to medications and other practices in Thoroughbred racing.
- Require all sectors of Thoroughbred racing to recognize the anti-doping oversight by THADA as a condition precedent to participating in interstate simulcasting, Internet wagering on horseracing, and interstate common pool wagering under the Interstate Horseracing Act (IHA). The bill would not directly amend or change the structure of the consents currently required in the IHA for interstate wagering.
- Require the racing industry to bear the costs of programs initiated by the Authority and enforcement.

Thoroughbred Horseracing Anti-Doping Authority

THADA will develop and administer the anti-doping program for Thoroughbred racing. The program will become effective January 1, 2017. THADA's anti-doping program will apply to all Thoroughbred races subject to an interstate off-track wager under the IHA ("covered races"); to all horses that race in such races ("covered horses"); and to trainers,

owners, veterinarians, their agents and employees, who are engaged in the care, training, and racing of horses in races subject to an interstate off-track wager (“covered persons”).

While the bill would not explicitly amend the IHA, THADA’s jurisdiction and authority over all involved in interstate Thoroughbred wagering would be made a condition precedent to the privilege to accept, receive, or transmit wagers on races subject to the IHA. All owners, breeders, trainers, jockeys, veterinarians would agree to this jurisdiction and authority by participating and racing race horses in races subject to the IHA. This condition is in addition to the consents and other requirements currently in the IHA.

Composition of THADA

THADA will be a non-profit corporation initially governed by a board composed of (1) USADA’s chief executive officer; (2) five USADA board members; and (3) five individuals from different constituencies in the Thoroughbred industry, who shall be appointed by USADA.

To fill the five industry positions, USADA will solicit a list of two candidates each from a cross-section of Thoroughbred industry organizations. The bill requires USADA to appoint board members from large and broadly-based organizations to provide diversity. If USADA does not fill all the board positions from the first lists provided, it shall seek additional proposals from Thoroughbred industry associations to complete the board. If USADA does not fill all positions from the second list, it may choose individuals “at large” with Thoroughbred experience. USADA has complete discretion in appointing Thoroughbred industry representatives to the board.

To avoid conflicts of interest, no nominee or board member of THADA could be:

1. An individual with a financial interest in, or who provides goods or services to, a horse in a race subject to an off-track wager under the IHA;
2. An official, officer or board member of a Thoroughbred association; or
3. An employee or entity with a business or commercial relationship with an individual or organization described just above.

Board terms will be three years and shall be staggered. No one may serve more than two consecutive terms.

THADA shall establish one or more committees, including a standing advisory and technical committee on permitted and prohibited substances and methods, to assist it in establishing and administering the anti-doping program. Committees may include individuals with an interest in the Thoroughbred industry.

Reports to Congress

Three years after the anti-doping program begins, the Comptroller General will analyze THADA's operations and provide a report to Congress regarding its effectiveness. The Comptroller will provide this analysis every four years thereafter.

Authority and Powers of THADA

After opportunity for industry and public comment, the Authority shall develop and administer the anti-doping program, which shall include:

1. Lists of permitted and prohibited substances and practices;
2. Schedule of sanctions, including a lifetime ban from horseracing;
3. Programs for anti-doping research and education;
4. Testing procedures, standards and protocols for in- and out-of-competition testing;
5. Procedures for investigating, charging, and adjudicating violations and for the enforcement of sanctions; and
6. Laboratory standards for accreditation and testing requirements, procedures, and protocols.

Thoroughbred Horseracing Anti-Doping Program

The Thoroughbred anti-doping program shall be drafted with consideration for international anti-doping standards. It will take effect on January 1, 2017 and shall be updated from time to time. The program shall include:

1. A uniform set of anti-doping rules;
2. A list of permitted and prohibited substances;
3. A process for sample collection, analysis, and test distribution;
4. Programs for in-and out-of-competition testing without notice;
5. Mandatory reporting of a horse's location for testing;
6. Investigations related to rule violations;
7. Management of violation results;
8. Laboratory accreditation requirements; and
9. Disciplinary hearings to include arbitration, sanctions, research, and education.

THADA shall develop and publish lists of permitted and prohibited substances and methods. The initial list shall include any substances or methods included as either class 1, 2, 3 and 4 drugs, medications and substances in the Uniform Classification Guidelines for Foreign Substances of the ARCI, or the 2015 Prohibited List, International Standard, of the World Anti-Doping Code, unless a substance is on the permitted list of ARCI as therapeutic. THADA will go through an industry and public comment period before adding, or deleting, permitted and prohibited substances from the final program lists.

Duty of Cooperation

THADA may enter into agreements with state racing commissions to implement the anti-doping program in a particular state if it feels that the commission will be able to implement it under the Authority's standards.

Effective Date

The anti-doping program shall take effect on January 1, 2017. The Authority and state racing commissions shall work together with respect to doping conduct, sanctions, and investigations prior to that date. All rules called for in the bill shall be in place 120 days prior to January 1, 2017. All rules shall be subject to industry and public comment before being adopted.

Funding

The bill does not provide for any federal funding to set up the Authority and anti-doping program or its subsequent operation. Funds for the establishment and administration of the anti-doping program shall be paid entirely by the Thoroughbred racing industry.

Initial funding to establish and operate the Authority shall be provided by loans and donations to the Authority. THADA may borrow money and accept public donations to fund its initial operations.

By November 1, 2016 the Authority shall determine and provide to each state racing commission the estimated amount required per starter to fund the anti-doping program for the next year (2017) and to erase any outstanding debt or funding shortfalls. This amount will be based upon the annual budget.

The Authority's initial budget shall require the approval of two-thirds of the board, as shall any succeeding budget that exceeds by 5% the preceding year's budget.

On the 20th of each month, each state racing commissions shall pay an amount equal to the applicable fee per racing start multiplied by the number of starts in the previous month. Each state racing commission shall determine the method by which the requisite amount shall be allocated, assessed, and collected from the industry in each state. In no case shall the funds come out of an increase in takeout.

Congressional Action

The legislation was referred to the House Energy and Commerce Committee, on which Mr. Tonko sits. No further action has been taken.