

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.

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## 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.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Interstate Horseracing  
5 Improvement Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Congress enacted the Interstate Horse-  
9 racing Act of 1978 (15 U.S.C. 3001 et seq.) to regu-

1 late interstate commerce with respect to parimutuel  
2 wagering on horseracing in order to protect and fur-  
3 ther the horseracing industry of the United States.

4 (2) The horseracing industry represents ap-  
5 proximately \$40,000,000,000 to the United States  
6 economy annually and generates nearly 400,000 do-  
7 mestic jobs.

8 (3) The use of performance-enhancing drugs in  
9 horseracing adversely affects interstate commerce,  
10 creates unfair competition, deceives horse buyers  
11 and the wagering public, weakens the breed of the  
12 American Thoroughbred, is detrimental to inter-  
13 national sales of the American Thoroughbred, and  
14 threatens the safety and welfare of horses and jock-  
15 eys.

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

21 (5) The use of performance-enhancing drugs in  
22 horseracing is not permitted in most jurisdictions  
23 outside the United States. In the internationally  
24 competitive sport of horseracing, the United States

1 stands alone in its permissive use of performance-en-  
2 hancing drugs.

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

6 (7) To protect and further the horseracing in-  
7 dustry of the United States, it is necessary to pro-  
8 hibit the use of performance-enhancing drugs in  
9 interstate horseracing.

10 **SEC. 3. PROHIBITIONS ON USE OF PERFORMANCE-ENHANC-**  
11 **ING DRUGS.**

12 (a) IN GENERAL.—The Interstate Horseracing Act  
13 of 1978 (15 U.S.C. 3001 et seq.) is amended—

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

16 (2) by inserting after section 8 the following:

17 **“SEC. 9. PROHIBITIONS ON USE OF PERFORMANCE-EN-**  
18 **HANCING DRUGS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) ACCREDITED THIRD PARTY CONFORMITY  
21 ASSESSMENT BODY.—The term ‘accredited third  
22 party conformity assessment body’ means a testing  
23 laboratory that has an accreditation—

24 “(A) meeting International Organization  
25 for Standardization/International Electro-

1 technical Commission standard 17025:2005 en-  
2 titled ‘General Requirements for the Com-  
3 petence of Testing and Calibration Labora-  
4 tories’ (or any successor standard);

5 “(B) from an accreditation body that is a  
6 signatory to the International Laboratory Ac-  
7 creditation Cooperation Mutual Recognition Ar-  
8 rangement; and

9 “(C) that includes testing for performance-  
10 enhancing drugs within the scope of the accred-  
11 itation.

12 “(2) PERFORMANCE-ENHANCING DRUG.—The  
13 term ‘performance-enhancing drug’—

14 “(A) means any substance capable of af-  
15 fecting the performance of a horse at any time  
16 by acting on the nervous system, cardiovascular  
17 system, respiratory system, digestive system,  
18 urinary system, reproductive system, musculo-  
19 skeletal system, blood system, immune system  
20 (other than licensed vaccines against infectious  
21 agents), or endocrine system of the horse; and

22 “(B) includes the substances listed in the  
23 Alphabetized Listing of Drugs in the January  
24 2010 revision of the Association of Racing  
25 Commissioners International, Inc., publication

1           entitled ‘Uniform Classification Guidelines for  
2           Foreign Substances’.

3           “(b) PROHIBITION ON ENTERING HORSES UNDER  
4 THE INFLUENCE OF PERFORMANCE-ENHANCING DRUGS  
5 IN RACES SUBJECT TO INTERSTATE OFF-TRACK WAGER-  
6 ING.—A person may not—

7           “(1) enter a horse in a race that is subject to  
8           an interstate off-track wager if the person knows the  
9           horse is under the influence of a performance-en-  
10          hancing drug; or

11          “(2) knowingly provide a horse with a perform-  
12          ance-enhancing drug if the horse, while under the in-  
13          fluence of the drug, will participate in a race that  
14          is subject to an interstate off-track wager.

15          “(c) REGULATIONS OF THE HOST RACING ASSOCIA-  
16 TION BANNING PERFORMANCE-ENHANCING DRUGS.—A  
17 host racing association may not conduct a horserace that  
18 is the subject of an interstate off-track wager unless the  
19 host racing association has a policy in place that—

20          “(1) bans any person from providing a horse  
21          with a performance-enhancing drug if the horse will  
22          participate in such a horserace while under the influ-  
23          ence of the drug;

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

1           “(3) requires, for each horserace that is the  
2           subject of an interstate off-track wager, that an ac-  
3           credited third party conformity assessment body test  
4           for any performance-enhancing drug—

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

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

9           “(4) requires the accredited third party con-  
10          formity assessment body performing tests described  
11          in paragraph (3) to report any test results dem-  
12          onstrating that a horse may participate, or may have  
13          participated, in a horserace that is the subject of an  
14          interstate off-track wager while under the influence  
15          of a performance-enhancing drug—

16                   “(A) to the Federal Trade Commission;

17          and

18                   “(B) if the host racing commission has en-  
19          tered into an agreement under subsection (e),  
20          to the host racing commission.

21          “(d) PENALTIES.—

22                   “(1) CIVIL PENALTIES.—

23                   “(A) IN GENERAL.—A person that pro-  
24          vides a horse with a performance-enhancing

1 drug or races a horse in violation of subsection  
2 (b) shall be—

3 “(i) for the first such violation—

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

6 “(II) suspended for a period of  
7 not less than 180 days from all activi-  
8 ties relating to any horserace that is  
9 the subject of an interstate off-track  
10 wager;

11 “(ii) for the second such violation—

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

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

19 “(iii) for the third or subsequent such  
20 violation—

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

23 “(II) permanently banned from  
24 all activities relating to any horserace

1                   that is the subject of an interstate off-  
2                   track wager.

3                   “(B) HORSERACING ACTIVITIES.—For pur-  
4                   poses of subparagraph (A), activities relating to  
5                   a horserace that is the subject of an interstate  
6                   off-track wager include being physically present  
7                   at any race track at which any such horserace  
8                   takes place, placing a wager on any such horse-  
9                   race, and entering a horse in any such horse-  
10                  race.

11                  “(C) PAYMENT OF CIVIL PENALTIES.—A  
12                  civil penalty imposed under this paragraph shall  
13                  be paid to the United States without regard to  
14                  whether the imposition of the penalty results  
15                  from the initiation of a civil action pursuant to  
16                  section 10.

17                  “(2) SUSPENSION OF HORSES.—A horse that is  
18                  provided with a performance-enhancing drug or is  
19                  raced in violation of subsection (b) shall—

20                         “(A) for the first such violation, be sus-  
21                         pended for a period of not less than 180 days  
22                         from racing in any horserace that is the subject  
23                         of an interstate off-track wager;

24                         “(B) for the second such violation, be sus-  
25                         pended for a period of not less than 1 year

1 from racing in any horserace that is the subject  
2 of an interstate off-track wager; and

3 “(C) for the third or subsequent such vio-  
4 lation, be suspended for a period of not less  
5 than 2 years from racing in any horserace that  
6 is the subject of an interstate off-track wager.

7 “(3) VIOLATIONS IN MULTIPLE STATES.—A  
8 person shall be subject to a penalty described in  
9 clause (ii) or (iii) of paragraph (1)(A), and a horse  
10 shall be subject to suspension under subparagraph  
11 (B) or (C) of paragraph (2), for a second or subse-  
12 quent violation of subsection (b) without regard to  
13 whether the prior violation and the second or subse-  
14 quent violation occurred in the same State.

15 “(e) AGREEMENTS FOR ENFORCEMENT BY HOST  
16 RACING COMMISSIONS.—

17 “(1) IN GENERAL.—The Federal Trade Com-  
18 mission may enter into an agreement with a host  
19 racing commission under which the host racing com-  
20 mission agrees to enforce the provisions of this sec-  
21 tion with respect to horseraces that are the subject  
22 of interstate off-track wagers in the host State.

23 “(2) CONDITIONAL AVAILABILITY OF CIVIL  
24 PENALTIES TO HOST RACING COMMISSIONS.—If a  
25 host racing commission agrees to enforce the provi-

1 sions of this section pursuant to an agreement under  
2 paragraph (1), any amounts received by the United  
3 States as a result of a civil penalty imposed under  
4 subsection (d)(1) with respect to a horserace that  
5 occurred in the State in which the host racing com-  
6 mission operates shall be available to the host racing  
7 commission, without further appropriation and until  
8 expended, to cover the costs incurred by the host  
9 racing commission in enforcing the provisions of this  
10 section.

11 “(f) ENFORCEMENT BY THE FEDERAL TRADE COM-  
12 MISSION.—

13 “(1) IN GENERAL.—The Federal Trade Com-  
14 mission shall enforce the provisions of this section—

15 “(A) with respect to horseraces that are  
16 the subject of interstate off-track wagers that  
17 occur—

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

21 “(ii) in any State in which the host  
22 racing commission has entered into an  
23 agreement under subsection (e) if the Fed-  
24 eral Trade Commission determines the  
25 host racing commission is not adequately

1 enforcing the provisions of this section;

2 and

3 “(B) with respect to violations of sub-  
4 section (b) by a person, or with respect to a  
5 horse, in multiple States.

6 “(2) UNFAIR OR DECEPTIVE ACT OR PRACTICE;  
7 ACTIONS BY FEDERAL TRADE COMMISSION.—In  
8 cases in which the Federal Trade Commission en-  
9 forces the provisions of this section pursuant to  
10 paragraph (1)—

11 “(A) a violation of a prohibition described  
12 in subsection (b) or (c) shall be treated as a  
13 violation of a rule defining an unfair or decep-  
14 tive act or practice described under section  
15 18(a)(1)(B) of the Federal Trade Commission  
16 Act (15 U.S.C. 57a(a)(1)(B)); and

17 “(B) except as provided in paragraph (3),  
18 the Federal Trade Commission shall enforce the  
19 provisions of this section in the same manner,  
20 by the same means, and with the same jurisdic-  
21 tion, powers, and duties as though all applicable  
22 terms and provisions of the Federal Trade  
23 Commission Act (15 U.S.C. 41 et seq.) were in-  
24 corporated into and made part of this section.



1 gagement of another person in a practice that violates a  
2 provision of section 9 or a rule prescribed under section  
3 9, the person may bring a civil action in an appropriate  
4 district court of the United States or other court of com-  
5 petent jurisdiction—

6           “(1) to enjoin the practice;

7           “(2) to enforce compliance with the provision or  
8 rule;

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

11           “(4) to obtain damages or restitution, including  
12 court costs and reasonable attorney and expert wit-  
13 ness fees; and

14           “(5) to obtain such other relief as the court  
15 considers appropriate.”.

16       (b) EFFECTIVE DATE.—The amendments made by  
17 subsection (a) shall take effect on the date of the enact-  
18 ment of this Act and apply with respect to horseraces oc-  
19 ccurring on or after that date.

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