

## **Alert** | Equine Industry Group



August 2020

### **The Horse Racing Integrity Act: Will It Cross the Finish Line?**

With a schedule upended like other professional sports this year, the Kentucky Derby, usually run on the first Saturday of May, is now the second leg of racing's Triple Crown and will not take place until Saturday, Sept. 5. Simultaneously with the top three-year-old horses in the country "Running for the Roses," federal legislation seeking to establish a new organization charged with establishing a uniform national medication program for the industry will be racing toward passage prior to the end of this year's legislative session.

The Horse Racing Integrity Act (HRIA) was introduced (for the third time in the past five years) in March 2020, with bipartisan support in both the House and the Senate. Sponsors in the House are Reps. Andy Barr (R-KY) and Paul Tonko (D-NY); in the Senate, a companion bill is co-sponsored by Sens. Kirsten Gillibrand (D-NY) and Martha McSally (R-AZ). The bill has over 255 co-sponsors in the House and 25 in the Senate.

While the horse-racing industry is a significant economic driver in the United States, with an economic impact of over \$15 billion and support of over 240,000 jobs, the industry has been in the headlines recently for an unfortunate spate of racetrack fatalities, with over 50 horses having died from racing-related injuries at Santa Anita Racecourse in California since December 2018 and another 24 fatal injuries this year at Belmont Park in New York. Earlier this year, the federal indictment in New York of 27 people, including trainers, equine veterinarians, and drug companies, only added to the call for increased regulation of the industry.

The United States is unique among the world's racing jurisdictions in its permissive use of race-day medication (primarily Lasix, a diuretic used to prevent exercise-induced pulmonary bleeding) and the lack of uniformity of regulations among the states where racing takes place. A patchwork system of 38 unique state-racing commissions each has its own set of rules and regulations regarding the conduct of racing, and over 55% of Thoroughbred, Quarter Horse, and Standardbred race horses in 2018 participated in multiple U.S. jurisdictions.

It against this backdrop that the HRIA, according to one of its sponsors, “would establish a uniform national medication program, encourage fair competition, modernize regulations across state lines and prioritize the safety and welfare of the people and equine athletes involved in the noble sport of kings.” The HRIA would establish a regulatory body, under the jurisdiction of the Federal Trade Commission, and modeled after the U.S. Olympic Anti-Doping Agency (USADA), “to ensure the wagering public's confidence in the fairness of horse racing and to strengthen and harmonize anti-doping and medication control rules and sanctions for horseracing in order to ensure fair and transparent horseraces and to deter the commission of anti-doping and medication control rules violations.”

This new authority would be governed by a board of 13 members, including the CEO of the USADA, six members from the board of USADA, and six members from various constituencies of the racing industry such as veterinarians, trainers, and jockeys. The new agency would develop a standardized list of permitted and prohibited substances, treatments, and methods for all covered races in the United States, as well as ban all medications within 24 hours of a race.

### Prospects for Passage

The driving force behind the HRIA has been The Jockey Club which has focused on the health of “equine athletes” and the need for integrity and transparency. As expressed by the Jockey Club: “Far too long, cheaters have been abusing the system and horses are most often the ones to suffer.” There is also wide support for this legislation from groups outside the industry, such as The Humane Society of the United States. At the same time, support within the racing industry is mixed.

Those opposing the legislation, such as the United States Trotting Association, see the bill as creating an unnecessary layer of federal oversight, additional regulations, costs, fees, and resultant job losses. Others in the industry vehemently oppose the ban on race-day use of Lasix, which they view as safe, therapeutic, and humane.

Additionally, there are those within the industry and Congress who would like to see the bill extended to address issues beyond just medications, such as track safety and other improvements they believe can be made through the legislation. Those discussions and negotiations remain ongoing, but agreement may not be reached before the November election.

However, Congress may return to Washington for a “lame duck” session at the end of the year when proponents may move an amended version of the bill across the finish line.

## Author

This GT Alert was prepared by:

- [Rodman Law](#) | +1 973.443.3513 | [lawr@gtlaw.com](mailto:lawr@gtlaw.com)

Albany. Amsterdam. Atlanta. Austin. Boston. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Germany.~ Houston. Las Vegas. London.\* Los Angeles. Mexico City.+ Miami. Milan.» Minneapolis. Nashville. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Sacramento. Salt Lake City. San Francisco. Seoul.∞ Shanghai. Silicon Valley. Tallahassee. Tampa. Tel Aviv.^ Tokyo.‡ Warsaw.~ Washington, D.C.. West Palm Beach. Westchester County.

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. ~Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. \*Operates as a separate UK registered legal entity. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. »Greenberg Traurig's Milan office is operated by Greenberg Traurig Santa Maria, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ‡Greenberg Traurig Tokyo Law Offices are operated by GT Tokyo Horitsu Jimusho, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ~Greenberg Traurig's Warsaw office is operated by Greenberg Traurig Grzesiak sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in Greenberg Traurig Grzesiak sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2020 Greenberg Traurig, LLP. All rights reserved.*