



SPONSOR: Rep. Carson & Sen. Ennis  
Reps. Baumbach, Bolden, Brady, Briggs King, Hudson,  
Keeley, Kenton, Mitchell, Outten, Ramone, Viola,  
Wilson; Sens. Cloutier, Pettyjohn, Simpson

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 439

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO HORSE RACING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 3 of the Delaware Code by renaming “Subchapter V. Interstate Licensing Compact” of Chapter 101 as “Subchapter V. Interstate Anti-Doping and Drug Testing Standards Compact” and by deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 101. Horse Racing

~~Subchapter V. Interstate Licensing Compact.~~

Subchapter V. Interstate Anti-Doping and Drug Testing Standards Compact.

~~§§ 10180-10193. Interstate Licensing Compact.~~

§ 10180. Short title.

This Compact shall be known and may be cited as the “Interstate Anti-Doping and Drug Testing Standards Compact”.

§ 10181. Compact.

The State of Delaware is hereby authorized to enter into the following Compact subject to the terms and conditions stated in the Compact.

ARTICLE I. PURPOSES

The purposes of this Compact are:

(a) To enable Member States to act jointly and cooperatively to create more uniform, effective, and efficient breed specific rules and regulations relating to the permitted and prohibited use of drugs and medications for the health and welfare of the horse and the integrity of racing, and testing for such substances, in or affecting a member state; and

(b) To authorize the Delaware Thoroughbred Racing Commission to participate in the compact.

ARTICLE II. DEFINITIONS

As used in this compact:

22           (a) “Compact Commission” means the organization of delegates from the member States that is authorized and  
23 empowered by this compact to carry out the purposes of this compact.

24           (b) “Compact Rule” means a rule or regulation Member State regulating the permitted and prohibited use of drugs  
25 and medications for the health and welfare of the horse and the integrity of racing, and testing for such substances, in live  
26 pari-mutuel horse racing that occurs in or affects such States.

27           (c) “Delegate” means the chair of the member State Racing Commission or similar regulatory body in a State, or  
28 such person’s designee, who represents the Member State as a voting member of the Compact Commission and anyone  
29 who is serving as such person’s alternate.

30           (d) “Equine Drug Rule” means a rule or regulation that relates to the administration of drugs, medications, or other  
31 substances to a horse that may participate in live horse racing with pari-mutuel wagering including, but not limited to, the  
32 regulation of the permissible use of such substances to ensure the integrity of racing and the health, safety and welfare of  
33 race horses, appropriate sanctions for rule violations, and quality laboratory testing programs to detect such substances in  
34 the bodily system or a race horse.

35           (e) “Live Racing,” means live horse racing, except harness horse racing, with pari-mutuel wagering.

36           (f) “Member State” means each State that has enacted this compact.

37           (g) “National Industry Stakeholder” means a non-governmental organization that from a national perspective  
38 significantly represents one (1) or more categories of participants in live racing and pari-mutuel wagering.

39           (h) “Participants in live racing” means all persons who participate in, operate, provide industry services for, or are  
40 involved with live racing with pari-mutuel wagering.

41           (i) “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of  
42 Puerto Rico, and each territory or possession of the United States.

43           (j) “State Racing Commission” means the State racing commission, or its equivalent, in each Member State, where  
44 a member State has more than one; it shall mean all such racing commissions, or their equivalents, except for the Delaware  
45 Harness Racing Commission.

### 46           ARTICLE III. COMPOSITION AND MEETING OF COMPACT COMMISSION

47           The Member States shall create and participate in a Compact Commission as follows:

48           (a) This compact shall come into force when enacted by any two (2) eligible States, and shall thereafter become  
49 effective as to any other Member State that enacts this compact. Any State that has adopted or authorized pari-mutuel  
50 wagering or live horse racing shall be eligible to become a party to this compact. A compact rule shall not become effective  
51 in a new Member State based merely upon it entering the compact.

52           **(b) The Member States hereby create the interstate anti-doping and drug testing standards Compact Commission, a**  
53           **body corporate and an interstate governmental entity of the Member States, to coordinate the rule making actions of each**  
54           **Member State Racing Commission through a Compact Commission.**

55           **(c) The Compact Commission shall consist of one delegate, the chair of the State Racing Commission or such**  
56           **person's designee, from each Member State, when a delegate is not present to perform any duty in the Compact**  
57           **Commission, a designated alternate may serve. The person who represents a Member State in the Compact Commission**  
58           **shall serve and perform such duties without compensation or remuneration; provided that subject to the availability of**  
59           **budgeted funds, each may be reimbursed or ordinary and necessary costs and expenses. The designation of a delegate,**  
60           **including the alternate, shall be effective when written notice has been provided to the Compact Commission. The delegate,**  
61           **including the alternate, must be a member or employee of the State Racing Commission.**

62           **(d) The compact delegate from each State shall participate as an agent of the State Racing Commission. Each**  
63           **delegate shall have the assistance of the State Racing Commission in regard to all decision making and actions of the State**  
64           **in and through the Compact Commission.**

65           **(e) Each Member State, by its delegate, shall be entitled to one vote in the Compact Commission. A super majority**  
66           **affirmative vote of eighty percent (80%) of the total number of delegates shall be required to propose a compact rule,**  
67           **receive and distribute any funds and to adopt, amend, or rescind the by-laws. A compact rule shall take effect in and for**  
68           **each Member State when adopted by a super majority affirmative vote of eighty percent (80%) of the total number of**  
69           **Member States. Other compact actions shall require a majority vote of the delegates who are meeting.**

70           **(f) Meetings and votes of the Compact Commission may be conducted in person or by telephone or other**  
71           **electronic communication. Meetings may be called by the chair of the Compact Commission or by any two (2) delegates,**  
72           **reasonable notice of each meeting shall be provided to delegates serving in the Compact Commission.**

73           **(g) No action may be taken at a Compact Commission meeting unless there is a quorum, which is either a majority**  
74           **of the delegates in the Compact Commission, or where applicable, all the delegates from any Member States who propose**  
75           **or are voting affirmatively to adopt a compact rule.**

76           **(h) Once effective, the compact shall continue force and remain binding according to its terms upon each Member**  
77           **State; provided that, a Member State may withdraw from the compact by repealing the statute that enacted the compact into**  
78           **law. The Racing Commission of a withdrawing State shall give written notice of such withdrawal to the compact chair, who**  
79           **shall notify the member State Racing Commissions. A withdrawing State shall remain responsible for any unfulfilled**  
80           **obligations and liabilities, the effective date of withdrawal from the compact shall be the effective date of the repeal.**

81                           **ARTICLE IV. OPERATION OF COMPACT COMMISSION**

82           The Compact Commission is hereby granted, so that it may be an effective means to pursue and achieve the  
83 purposes of each Member State in this compact, the power and duty:

84           (a) To adopt, amend, and rescind by-laws to govern its conduct, as may be necessary or appropriate to carry out  
85 the purposes of the compact; to publish them in a convenient form; and to file a copy of them with the State Racing  
86 Commission of each Member State;

87           (b) To elect annually from among the delegates (including alternates) a chair, vice-chair, and treasurer with such  
88 authority and duties as may be specified in the by-laws;

89           (c) To establish and appoint committees which it deems necessary for the carrying out of its functions, including  
90 advisory committees which shall be comprised of National Industry Stakeholders and organizations and such other persons  
91 as may be designated in accordance with the by-laws, to obtain their timely and meaningful input into the compact rule  
92 making processes;

93           (d) To establish an executive committee, with membership established in the by-laws, which shall oversee the day-  
94 to-day activities of compact administration and management by the executive director and staff; hire and fire as may be  
95 necessary after consultation with the Compact Commission; administer and enforce compliance with the provisions, by-  
96 laws, and rules of the compact; and perform such other duties as the by-laws may establish an executive committee, with  
97 membership;

98           (e) To create, appoint, and abolish all those offices, employments, and positions, including an executive director,  
99 useful to fulfill its purposes;

100           (f) To delegate day-to-day management and administration of its duties, as needed, to an executive director and  
101 support staff; and

102           (g) To adopt an annual budget sufficient to provide for the payment of the reasonable expenses of its  
103 establishment, organization, and ongoing activities; provided, that the budget shall be funded by only voluntary  
104 contributions.

#### 105                                   ARTICLE V. GENERAL POWERS AND DUTIES

106           To allow each Member State, as and when it chooses, to achieve the purpose of the compact through joint and  
107 cooperative action, the Member States are hereby granted the power and duty, by and through the Compact Commission:

108           (a) To act jointly and cooperatively to create a more equitable and uniform pari-mutuel racing and wagering  
109 interstate regulatory framework by the adoption of standardized rules for the permitted and prohibited use of drugs and  
110 medications for the health, and welfare of the horse and the integrity of racing, including rules governing the use of drugs  
111 and medications and drug testing;

112 (b) To collaborate with National Industry Stakeholders and industry organizations, including the association of  
113 Racing Commissioners International, Inc. and the Racing Medication and Testing Consortium, in the design and  
114 implementation of compact rules in a manner that serves the best interests of racing; and

115 (c) To propose and adopt breed specific compact equine drugs and medications rules for the health, and welfare of  
116 the horse, including rules governing the permitted and prohibited use of drugs and medications and drug testing, which  
117 shall have the force and effect of the State rules or regulations in the Member States, to govern live pari-mutuel horse  
118 racing.

#### 119 ARTICLE VI. OTHER POWERS AND DUTIES

120 The Compact Commission may exercise such incidental powers and duties as may be necessary and proper for it  
121 to function in a useful manner, including but not limited to the power and duty:

122 (a) To enter into contracts and agreements with governmental agencies and other persons, including officers and  
123 employees of a Member State, to provide personal services for its activities and such other services as may be necessary;

124 (b) To borrow, accept, and contract for the services of personnel from any State, Federal, or other Governmental  
125 Agency, or from any other person or entity;

126 (c) To receive information from and to provide information to each Member State Racing Commission, including  
127 its officers and staff, on such terms and conditions as may be established in the by-laws;

128 (d) To acquire, hold, and dispose of any real or personal property by gift, grant, purchase, lease, license, and  
129 similar means and to receive additional funds through gifts, grants, and appropriations;

130 (e) When authorized by a compact rule, to conduct hearings and render reports and advisory decisions and orders;  
131 and

132 (f) To establish in the by-laws the requirements that shall describe and govern its duties to conduct open or public  
133 meetings and to provide public access to compact records and information.

#### 134 ARTICLE VII. COMPACT RULE MAKING

135 In the exercise of its rule making authority, the Compact Commission shall:

136 (a) Engage in formal rule making pursuant to a process that substantially conforms to the model State  
137 Administrative Procedure Act of 1981 as amended, as may be appropriate to the actions and operations of the Compact  
138 Commission;

139 (b) Gather information and engage in discussions with advisory committees, National Industry Stakeholders, and  
140 others, including an opportunity for industry organizations to submit input to Member State Racing Commissions on the

141 state level, to foster, promote and conduct a collaborative approach in the design and advancement of compact rules in a  
142 manner that serves the best interests of racing and as established in the by-laws;

143 (c) Direct the publication in each Member State of each equine drug rule proposed by the Compact Commission,  
144 conduct a review of public comments received by each Member State Racing Commission and the Compact Commission in  
145 response to the publication of its rule making proposals, consult with National Industry Stakeholders and participants in live  
146 racing with regard to such process and any revisions to the compact rule proposal, and meet upon the completion of the  
147 public comment period to conduct a vote on the adoption of the proposed compact rule as a state rule in the Member States.  
148 The super majority affirmative vote of eighty percent (80%) of the member delegates for a proposed compact rule shall be  
149 necessary and sufficient to adopt, amend, or rescind a compact rule as applicable to the Member States; and

150 (d) Have a standing committee that reviews at least quarterly the participation in and value of compact rules, and  
151 when it determines that a revision is appropriate or when requested to be any Member State, submits a revising proposed  
152 compact rule, to the extent a revision would only and or remove a Member State or States from where a compact rule has  
153 been adopted, the vote required by this article shall be required or only such State or States. The standing committee shall  
154 gather information and engage in discussions with National Stakeholders, who may also directly recommend a compact  
155 rule proposal or revision to the Compact Committee.

#### 156 ARTICLE VIII. STATUS AND RELATIONSHIP TO MEMBER STATES

157 (a) The Compact Commission, as an interstate governmental entity, shall be exempt from all taxation in and by the  
158 Members States.

159 (b) The Compact Commission shall not pledge the credit of any Member State except by and with the appropriate  
160 legal authority of that State.

161 (c) Each Member State shall reimburse or otherwise pay the expenses of its delegate, including any alternate, in  
162 the Compact Commission.

163 (d) No Member State, except as provided in Article XI of this compact, shall be held liable for the debts or other  
164 financial obligations incurred by the Compact Commission.

165 (e) No Member State shall have, while it participates in the Compact Commission, any claim to or ownership of  
166 any property held by or vested in the Compact Commission or to any Compact Commission funds held pursuant to this  
167 compact except for state license or other fees or moneys collected by the Compact Commission as its agent.

168 (f) The compact dissolves upon the date of the withdrawal of the Member State that reduces membership in the  
169 compact to one (1) State. Upon dissolution, the compact becomes null and void and shall be of no further force or effect,  
170 although equine drug rules adopted through this compact shall remain rules in each Member State that had adopted them.

and the business and affairs of the compact shall be concluded and any surplus funds shall be distributed to the former Member States in accordance with the by-laws.

#### ARTICLE IX. RIGHTS AND RESPONSIBILITIES OF MEMBER STATES

(a) Each Member State in the compact shall accept the decisions, duly applicable to it, of the Compact Commission in regard to compact rules and rule making.

(b) This compact shall not be construed to diminish or limit the powers and responsibilities of the Member State Racing Commission or similar regulatory body, or to invalidate any action it has previously taken, except to the extent it has by its compact delegate, expressed its consent to a specific rule or other action of the Compact Commission. The compact delegate from each state shall serve as the agent of the State Racing Commission and shall possess substantial knowledge and experience as a regulator or participant in the horse racing industry.

#### ARTICLE X. ENFORCEMENT OF COMPACT

(a) The Compact Commission shall have standing to intervene in any legal action that pertains to the subject matter of the compact and might affect its powers, duties, or actions.

(b) The courts and executive in each Member State shall enforce the compact and take all actions necessary and appropriate to effectuate its purposes and intent. Compact provisions, by-laws, and rules shall be received by all judges, departments, agencies, bodies, and officers of each Member State and its political subdivisions as evidence of them.

#### ARTICLE XI. LEGAL ACTIONS AGAINST COMPACT

(a) Any person may commence a claim, action, or proceeding against the Compact Commission in State Court for damages. The Compact Commission shall have the benefit of the same limits of liability, defenses, rights to indemnity and defense by the State, and other legal rights and defenses for non-compact matters of the State Racing Commission in the State. All legal rights and defenses that arise from this compact shall also be available to the Compact Commission.

(b) A Compact delegate, alternate, or other member or employee of a State Racing Commission who undertakes compact activities or duties does so in the course of business of their State Racing Commission, and shall have the benefit of the same limits of liability, defenses, rights to indemnity and defense by the state, and other legal rights and defenses for non-compact matters of state employees in their State. The executive director and other employees of the Compact Commission shall have the benefit of these same legal rights and defenses of State employees in the Member State in which they are primarily employed. All legal rights and defenses that arise from this compact shall also be available to them.

(c) Each Member State shall be liable for and pay judgments filed against the Compact Commission to the extent related to its participation in the compact. Where liability arises from action undertaken jointly with other Member States, the liability shall be divided equally among the states for whom the applicable action or omission of the executive director

201 or other employees of the Compact Commission was undertaken; and no Member State shall contribute to or pay, or be  
202 jointly or severally or otherwise liable for, any part of any judgment beyond its share as determined in accordance with this  
203 article.

204 ARTICLE XII. RESTRICTIONS ON AUTHORITY

205 Delaware substantive state laws applicable to pari-mutuel horse racing and wagering shall remain in full force and  
206 effect.

207 ARTICLE XIII. CONSTRUCTION, SAVING, AND SEVERABILITY

208 (a) This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact shall  
209 be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution  
210 of the United States or of any Member State, or the applicability of this compact to any government, agency, person, or  
211 circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency,  
212 person, or circumstance shall not be affected. If all or some portion of this compact is held to be contrary to the Constitution  
213 of any Member State, the compact shall remain in full force and effect as to the remaining Member States and in full force  
214 and effect as to the state affected as to all severable matters.

215 (b) In the event of any allegation, finding, or ruling against the compact or its procedures or actions, provided that  
216 a Member State has followed the compact's stated procedures, any rule it purported to adopt using the procedures of this  
217 statute shall constitute a duly adopted and valid state rule.

218 Section 2. And be it further enacted, this act shall take effect October 1, 2018.

SYNOPSIS

This Bill authorizes the Thoroughbred Racing Commission to be a member of the new Interstate Anti-Doping and Drug Testing Standards Compact. Under the Bill the Thoroughbred Racing Commission would become a member of an interstate Compact with other party states for the establishment of uniform standards for drug testing of horses participating in horse racing. The Harness Racing Commission will not be a member of the Compact. The purpose of the Compact is to establish uniform requirements among the party states for the drug testing of horses participating in horse racing. The Compact Committee would be comprised of one representative from each party state.