

Date of Hearing: August 3, 2020

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

SB 800 (Dodd) – As Amended July 27, 2020

SENATE VOTE: 39-0

SUBJECT: Horse racing: veterinary medical records: racehorse fatalities: racehorse drug testing

SUMMARY: This bill would authorize veterinarians to make available the entire medical records of racehorses to specified parties involved in horse racing; requires the California Horse Racing Board (CHRB) to publish on a weekly basis on its internet website, all racehorse fatalities related to racing or training that occur within a licensed inclosure, as specified; and requires the CHRB to post results of non-confidential official racehorse drug test samples within five business days of the confirmation of the split sample or waiver of the split sample testing by the owner or trainer, as specified. Specifically, **this bill:**

- 1) Exempts from the existing prohibition on veterinarians disclosing any information concerning an animal receiving veterinarian services if the care or service was for a horse that has participated in the previous year, or is intended to participate, in a licensed horse race.
- 2) Requires, in situations where a horse has participated in or is intended to participate in a licensed horse race, the entire medical record for the horse shall be made available upon request to anyone responsible for the direct medical care of the horse, including the owner, trainer, or veterinarian, the CHRB or any other state or local governmental entity, and the racing association or fair conducting the licensed horse race.
- 3) Requires the CHRB to publish, on a weekly basis on its internet website, all racehorse fatalities related to racing or training that occur within a licensed inclosure.
- 4) Requires the CHRB to post on its internet website the results of all non-confidential official test samples within five business days of the confirmation of the split sample or waiver of the split sample testing by the owner or trainer.
- 5) Provides the bill shall not be construed to be retroactive or affect the confidentiality of test results collected before January 1, 2021.

EXISTING LAW:

- 1) Provides, in Article IV, Section 19(b) of the Constitution of the State of California, that the Legislature may provide for the regulation of horse race meetings; and, grants the CHRB all powers necessary and proper to enable it to carry out the law and makes the board responsible for, among other things, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering and administration and enforcement of all laws, rules, and regulations affecting horse racing and pari-mutuel wagering.
- 2) Requires the CHRB to adopt regulations to establish policies, guidelines, and penalties relating to equine medication in order to preserve and enhance the integrity of horse racing in the

state. That law requires that those policies, guidelines, and penalties include, at a minimum, provisions that prohibit, among other things, a substance of any kind from being administered by any means to a horse after it has been entered to race in a horse race, unless the CHRB has, by regulation, specifically authorized the use of the substance and its quantity and composition. That law provides that violations of this provision, as determined by the CHRB, are punishable as set forth in regulations adopted by the board.

3) Authorizes the CHRB to, at any time, suspend a license to conduct a horse racing meeting when necessary to protect the health and safety of horses or riders, as specified.

4) Requires the CHRB to establish safety standards to improve the safety of horses, riders, and workers at the racetrack.

5) Existing regulations of the CHRB require that, if a horse suffers a fatal injury on a racetrack in training or in competition, or dies or is euthanized within an area under the jurisdiction of the board, the horse undergo a postmortem examination at a diagnostic laboratory that is under contract with the board to determine the injury or sickness that resulted in euthanasia or natural death, as provided. Those regulations also provide for additional necropsy examinations requested by the owner or trainer, require the diagnostic laboratory to file a written report with the executive director of the CHRB, the equine medical director, and the official veterinarian upon completion of the postmortem examination, and require that each owner and trainer accept responsibility for the postmortem examination as a requisite for maintaining their occupational license.

6) Prohibits a veterinarian licensed in this state from disclosing any information concerning an animal receiving veterinary services except under any one of specified circumstances and subjects a veterinarian to specified criminal penalties for violating these provisions.

7) Requires any blood or urine test sample that the CHRB requires to be taken from a horse that is entered in any race be divided or taken in duplicate – the initial test sample is referred to as the official test sample and the secondary sample is referred to as the split sample.

8) Requires that the CHRB be notified of a finding of a prohibited drug substance in an official test sample within 24 hours of the confirmation of that prohibited drug substance in the split sample, as specified.

9) Requires, except as specified, that the results of the tests be confidential until or unless the CHRB files an official complaint.

FISCAL EFFECT: Unknown

COMMENTS:

Background

Horse racing in California. Horse racing has been taking place in California since the 1800s, but horse racing as we now know it – under the pari-mutuel wagering system – was not made possible until the electorate passed a constitutional amendment in 1933. The expressed intent of the Horse Racing Law is to allow pari-mutuel wagering on horse races and: 1) Assure protection

of the public; 2) Encourage agriculture and the breeding of horses in this state; 3) Provide uniformity of regulation for each type of horse racing; 5) Provide for maximum expansion of horse-racing opportunities in the public interest. To accomplish these objectives, the constitutional amendment created the California Horse Racing Board.

There are more than 17,000 licensed jobs tied to the horse racing industry in California, and according to the CHRB's Annual Report 2018-2019, the pari-mutuel handle totaled over \$2.9 billion. Under existing law, the CHRB is required to among other things, establish safety standards governing the uniformity and content of the track base and racing surface, inner and outer rails, gates and gaps, turf, access and egress to the track, lighting for night racing, equipment for horse and rider, drainage, communications, veterinary services, medical and ambulance services, and other track facilities to improve the safety of horses, riders, and workers at the racetrack.

The CHRB monitors equine safety measures and protocols within licensed facilities through official veterinarians, safety stewards, the Equine Medical Director (EMD), and the CHRB/University of California, Davis (UC Davis) postmortem program.

An unusual increase in equine fatalities in the winter and spring 2018-2019 season at Santa Anita Park increased focus on animal protection in California and made national headlines. A number of critics blamed the racing surfaces at Santa Anita which had endured heavier than normal rainfall which created maintenance problems. Experts were brought in to study and do work on the main track to ensure that it was as safe as possible for racing and training. This required a series of closures that temporarily halted racing and training. Management also introduced new safety measures. Those efforts resulted in a reduction but not the total elimination of horse deaths.

Additionally, SB 469 (Dodd, Chapter 22, Statutes of 2019) was signed into law by Governor Newsom and took immediate effect in June 2019. The bill authorized the CHRB to immediately suspend a license to conduct a horse racing meeting when necessary to protect the health and safety of horses and riders and the board adopted emergency regulations to implement the measure. At the same time, Governor Newsom directed the CHRB to create a panel of CHRB veterinarians and stewards to review the medical, training, and racing histories of each horse entered in a race, empowered to recommend to the stewards that they reject horses deemed unfit to run.

Despite these and other safety measures, equine deaths continued, though at a reduced rate. At the request of Governor Newsom in November 2019, the CHRB submitted a more extensive list of recommendations, some of which require legislation. This bill implements three of those recommendations; transparency of veterinarian records, requiring the CHRB to publish on a weekly basis all equine fatalities that occur within a licensed enclosure, and requiring the CHRB to post all confirmed failed equine drug tests.

Veterinarian records of equines. Under current law, licensed veterinarians are prohibited from disclosing any information concerning an animal receiving veterinary services, the client responsible for the animal receiving veterinary services, or the veterinary care provided to an animal, except under limited circumstances including written or oral authorization by informed consent of the client responsible for the animal, in response to a valid court subpoena, or as may be required to ensure compliance with any federal, state, county, or city law or regulation.

This bill adds an exemption to the general prohibition of sharing horse veterinary records if the care or service was for a horse that has participated in or is intended to participate in a licensed horse race. In these situations, the entire medical record for the horse shall be made available upon request to anyone responsible for the direct care of the horse, including the owner, trainer, or veterinarian, the CHRB or any other state or local government entity, and the racing association or fair conducting the licensed horse race.

On-line publishing of equine fatalities. The State of California monitors all horse fatalities within CHRB racing and authorized training facilities. This is accomplished through official veterinarians, safety stewards, the equine medical director, and the CHRB/University of California, Davis (UC Davis) post-mortem program. CHRB Rule 1846.5, Postmortem Examination, requires a necropsy for all horses dying within a CHRB facility. Research findings are published in veterinary medical journals and presented at racing industry, veterinary medical, and other professional meetings available to the public. Additionally, in January 2020, the CHRB began publishing weekly updates on equine fatalities including the horse's name, breed, the activity the horse was performing, the trainer of the horse, the track surface, the weather at the time of the injury, and the last time the horse had ran in a race, among other things.

This bill requires the CHRB, by statute, to publish on a weekly basis, on its internet website, all equine fatalities that occur within a CHRB licensed facility.

Equine drug testing. In order to protect horse and jockey welfare and the integrity of racing, the CHRB requires analysis of blood and urine samples from horses in competition. The Kenneth L. Maddy Equine Analytical Chemistry Laboratory (Maddy Lab) at UC Davis, is the authorized drug-testing laboratory for California horse racing. The Maddy Lab analyzed 52,333 samples during the 2018-2019 race season. Urine and blood samples are obtained post-race from the winner of every race, horses finishing second and third in certain stakes races, and from any other horses selected at random from each program, as well as other horses designated by the stewards. Post-race testing includes in-depth testing for anabolic steroids and over 1,800 other prohibited drugs, from regularly used therapeutic medications to potent stimulants such as ethylphenidate. Additionally, the Maddy Lab tests out-of-competition (OOC) blood samples. The OOC program monitors compliance with anabolic steroid reporting procedures and for surveillance of other drugs of interest.

Existing law requires any blood or urine test sample required by the CHRB to be taken from a horse to be divided or taken in duplicate. The initial test sample is referred to as the official test sample and the secondary sample is referred to the split sample. All samples immediately become and remain the property of the CHRB. If the official test sample is found to contain a prohibited drug substance, the executive director of the CHRB, after consulting with and agreeing with the equine medical director that the official test sample contains a prohibited substance, shall confidentially inform the owner and trainer of those results. The owner or trainer of the horse may then request that the split sample be tested by an independent laboratory, to be paid by the owner or trainer. Within 24 hours of the confirmation of a prohibited substance in the split sample, the executive director is required to report the results to the CHRB. Under existing law, the results of the test are required to be confidential until or unless the CHRB files an official complaint.

In order to increase transparency of testing, this bill requires the CHRB to post on its internet website the results of all non-confidential official test samples collected within five business days of the confirmation of the split sample or waiver of the split sample testing by the owner or trainer.

Purpose of the bill. According to the author's office, "the CHRB has recommended a number of statutory and regulatory changes. SB 800 includes three of the CHRB's recommendations – increased transparency of veterinary records, publishing online of equine fatalities, and publishing online negative drug test results. Together, with pending CHRB regulatory changes, this bill will help to ensure that California is the safest racing jurisdiction in the nation, and an example for other states to follow."

In support. The Los Angeles District Attorney's Office writes that it's "Santa Anita Task Force Report of Investigation recommended that California adopt policies to increase transparency of racehorse veterinary records. The Task Force recommended that complete, digitized, individual veterinary medical records should accompany a horse throughout its racing career."

Prior legislation. SB 469 (Dodd), Chapter 22, Statutes of 2019. Authorized the CHRB to immediately suspend a license to conduct a horse racing meeting when necessary to protect the health and safety of horses and riders, as specified.

AB 1723 (Committee on Governmental Organization), Chapter 420, Statutes of 2017. Authorized, upon approval of the CHRB, moneys in the backstretch welfare fund to be used to provide treatment for, and support the health care needs of, licensees under the Horse Racing Law, employees of racing associations, and members of horsemen's and horsewoman's organizations and other racing-related charitable organizations representing or assisting backstretch personnel, if the need for the treatment and support is related to the person's participation in the horse racing industry.

SB 317 (Denham), Chapter 77, Statutes of 2007. Required applicants for license as an official veterinarian to pass both a written and oral examination, and established qualifications for persons to be admitted to the official veterinarian examination.

SB 921 (Vincent), Chapter 155, Statutes of 2007. Increased the monetary penalty to \$100,000 for a violation for administering unauthorized drug substances to a horse entered in a horse race.

AB 52 (Horton), Chapter 179, Statutes of 2005. Required the CHRB to contract with the University of California to be the primary drug-testing laboratory for any required equine drug testing.

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles County District Attorney's Office

Opposition

None on file

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