

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 463 Steroid Use in Racing Greyhounds

SPONSOR(S): Smith and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 674

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism & Gaming Control Subcommittee		Bowen	Barry
2) Commerce Committee			

SUMMARY ANALYSIS

There are currently twelve licensed pari-mutuel greyhound racetracks in Florida. The Division of Pari-Mutuel Wagering (Division) is responsible for regulating pari-mutuel facilities, including protecting the safety and welfare of racing greyhounds by regulating the types and amounts of medication permitted in racing greyhounds. The Division maintains rules concerning permissible medications in greyhound racing.

Currently, state law requires the Division to follow standards set by the Association of Racing Commissioners International, Inc. (ARCI) regarding the permissible levels of naturally occurring substances in order to ensure the safety of racing greyhounds at licensed pari-mutuel racetracks in Florida. The ARCI's Model Rules of Racing (Model Rules) has until recently completely prohibited the use of anabolic steroids in racing greyhounds. However, in December 2017, ARCI amended its Model Rules to provide an exception that allows the use of the anabolic steroid, testosterone, so long as it is prescribed by a licensed veterinarian for the control of estrus (heat) in female racing greyhounds.

The bill provides that a positive test result for anabolic steroids in a racing greyhound before or after a race results in a violation of law.

The bill does not have a fiscal impact on state or local government.

The bill provides for an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Greyhound racing in Florida began in 1922, and pari-mutuel wagering on greyhound racing was legalized in 1932.¹ There are currently twelve licensed pari-mutuel greyhound racetracks in Florida, where thousands of greyhounds from around the country participate in races each year.² The Division is responsible for regulating pari-mutuel facilities, including protecting the safety and welfare of racing greyhounds. The Division enforces statutes and maintains policies that either limit or prohibit certain medications from being administered to racing greyhounds.

Much of the current law related to the medication and testing of racing animals was adopted in the 1990's. Given the large number of medications that could be used in greyhounds, the Division adopted a rule in 2011 to clarify which medications may or may not be used in connection with greyhound racing.³

Among other things, the Division's rule permits "the administration of testosterone or testosterone-like substances, when used for the control of estrus⁴ in female racing Greyhounds."⁵ According to the Division, rules were adopted with the understanding that trainers use testosterone only to control the amount of estrus in female greyhounds.⁶ However, some critics of greyhound racing contend that anabolic steroids are often administered to greyhounds as a performance enhancing medication to the detriment of the animal's well-being.⁷ Accordingly, other jurisdictions have prohibited the use of anabolic steroids in racing animals.⁸

In 2015, the statutes were revised to reflect the changing uses of medications and other substances in animal racing.⁹ Section 550.2415, F.S., currently prohibits the racing of an animal that has been impermissibly medicated and identifies certain medications or substances that are either prohibited or permitted only under limited circumstances. The statutes authorize the Division to adopt rules specifying acceptable levels of naturally occurring substances, in accordance with standards established by the Association of Racing Commissioners International, Inc. (ARCI).¹⁰ Up until December 2017, the ARCI Model Rules of Racing (Model Rules) completely prohibited the use of anabolic steroids in racing greyhounds at any stage of their training and racing careers.¹¹ ARCI amended its Model Rules in December 2017 to provide an exception that allows the use of the anabolic

¹ *The History of Greyhound Racing*, THE GREYHOUND RACING ASS'N OF AMERICA, INC., http://www.greyhound-racing.com/the_sport/history.html (last visited Nov. 16, 2017).

² See David Begnaud, *Florida's Greyhound racing may be headed for the finish line*, CBS EVENING NEWS, (Feb. 12, 2016) <http://www.cbsnews.com/news/floridas-greyhound-racing-may-be-headed-for-the-finish-line/> (There are 19 greyhound racetracks in the United States—12 of which are located in Florida).

³ See Rule 61D-6.007, F.A.C., regarding permitted medications for racing greyhounds.

⁴ *Estrus*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/estrus>, (last visited Jan. 9, 2018) ("a regularly recurrent state of sexual receptivity during which the female of most mammals will accept the male and is capable of conceiving: Heat").

⁵ *Id.*

⁶ See Rule 61D-6.007.

⁷ See *About Dog Racing: Drugs*, GREY2K USA WORLDWIDE, <https://www.grey2kusa.org/about/drugs.php> (last visited Jan. 9, 2017).

⁸ See Independent Anti-Doping and Medication Control Review, *Report of Current GBGB Anti-doping and Medication Rules and their Implementation* (London: Greyhound Board of Great Britain, 2010), 24; see also Greyhounds Australasia, *Greyhounds Australasia Rules* (Springvale: Greyhounds Australasia, 2012); New Zealand Greyhound Racing Association, "Categories of Prohibited Substances," Rules and Policies (Lower Hutt: New Zealand Greyhound Racing Association, 2014).

⁹ Ch. 2015-88, Laws of Fla.

¹⁰ s. 550.2415(7)(a), F.S.

¹¹ THE ASS'N OF RACING COMMISSIONERS INT'L, *Model Rules of Racing*, Version 7.0

https://drive.google.com/file/d/0B2HwTiDKu_FHVTfTU0yU3pmT3M/view (last visited Jan. 9, 2018).

steroid, testosterone, so long as it is prescribed by a licensed veterinarian for the control of estrus in female racing greyhounds.¹² Other drugs and substances are permitted in Florida under limited circumstances, such as furosemide to treat exercise-induced bleeding. Vitamins and minerals that do not exceed certain levels are also permitted.

Currently, the following factors are evaluated by the Division in determining whether a substance is prohibited:

- Whether the substance was administered during a specific time frame prior to a race;
- Whether the racing animal is approved or qualified to receive the substance;
- What level of the substance is detected as set by administrative rule; and
- What method of administration was used.

Samples of bodily fluids may be collected from a racing animal immediately before and immediately after it has raced. If racing officials find that impermissible substances have been administered, impermissible levels of substances have been administered, or permissible substances have been administered during prohibited periods before a race, such substances may be confiscated and the racing animal may be prohibited from racing.

The trainer of record for each animal is responsible for the condition of the animals he or she enters into a race, and for securing all prescribed medications, over-the-counter medicines, and natural or synthetic medicinal compounds.

In determining whether a violation has occurred, samples from racing greyhounds are collected at racetracks and analyzed by the Division's laboratory.¹³ The sample collection process has recently been the subject of litigation. In December 2017, an Administrative Law Judge at the Division of Administrative Hearings (DOAH) issued a partial summary final order, concluding that certain sample collection procedures employed by the Division are unadopted rules and, therefore, invalid unless promulgated pursuant to the rulemaking process set forth in chapter 120, F.S.¹⁴ In response to this ruling, which is subject to appeal by the Division, the Division issued an Emergency Rule on December 27, 2017, that outlines the procedures the Division will follow for collecting samples.¹⁵

If the Division's laboratory finds that the sample contains prohibited substances, the owner or trainer has the right to request another analysis be done on the retained portion by an independent laboratory. If the independent laboratory's analysis confirms the finding made by the Division's laboratory, administrative disciplinary proceedings may be pursued against the owner or trainer. However, if the results cannot be confirmed by an independent laboratory, a greyhound owner or trainer may still be prosecuted based on the original positive test result from the Division's laboratory. This is due to difficulties in collecting a sufficient amount of sample from a greyhound for the independent laboratory analysis.

Effect of Proposed Changes

The bill modifies s. 550.2415, F.S., related to the impermissible medication of racing animals, by making it a violation for a greyhound to test positive for anabolic steroids before or after a race. Licensees responsible for a racing greyhound are held in violation if illegal substances are found, whether or not the actual perpetrator is known.

¹² THE ASS'N OF RACING COMMISSIONERS INT'L, *Model Rules of Racing*, Version 8.2

http://arci.blob.core.windows.net/webdocs/2017%2012%20Model_Rules_V8.2.pdf (last visited Jan. 9, 2018).

¹³ The University of Florida College of Veterinary Medicine Equine Racing Laboratory is currently under annual contract for these services. See *Veterinary Diagnostic Laboratories*, UF LARGE ANIMAL HOSPITAL, COLLEGE OF VETERINARY MEDICINE, <http://largeanimal.vethospitals.ufl.edu/services/veterinary-diagnostic-laboratories/> (last visited Jan. 9, 2017).

¹⁴ *McClellan v. DBPR*, Case No. 17-5238RU (Fla. DOAH Dec. 22, 2017).

¹⁵ Emergency Rule 61DER17-2, F.A.C.

The bill maintains existing procedures for determining violations. The bill provides that if a racing greyhound tests positive for anabolic steroids, administrative sanctions set forth in current law may apply. The licensee's license can be suspended or revoked or the licensee may be fined. The maximum fine for violations is \$10,000 or the amount of the purse, whichever is greater. The deadline for the initiation of administrative disciplinary proceedings is 90 days from the date the violation was committed. Any affected licensee would have the same due process rights, including the opportunity for a hearing, which law currently affords for alleged violations under s. 550.2415, F.S.

B. SECTION DIRECTORY:

Section 1 amends s. 550.2415, F.S., making it a violation for a racing greyhound to have anabolic steroids present in the bloodstream resulting in a positive test based on samples taken either before or immediately after the racing of that greyhound.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill does not have a fiscal impact on state or local government.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES