



H.B. 44

124th General Assembly
(As Introduced)

Rep. Damschroder

BILL SUMMARY

- Prohibits a person from entering or driving a horse that has a drug in its body in a pulling contest, and requires the Director of Agriculture to adopt rules that provide exceptions to the prohibition for certain quantities of drugs that do not enhance performance.
- Provides for sampling and testing for the presence of drugs in the body of a horse that is entered in a pulling contest or for other conditions that may threaten the health, safety, or welfare of such a horse.
- Provides for enforcement and rulemaking by the Director.
- Creates the Pulling Contest Sampling and Testing Fund.

CONTENT AND OPERATION

Prohibition against entering or driving a drugged horse in a pulling contest

The bill prohibits a person from entering or driving a horse that has a drug in the horse's body in a pulling contest. However, the prohibition does not apply if the presence of the type and quantity of drug involved is authorized by rules adopted by the Director of Agriculture under the bill. (Sec. 901.88(A).)

The bill defines "horse" as including all members of the family equidae (sec. 901.85(B)). "Drug" has the same meaning as in the Pure Food and Drug Law and includes all of the following: (1) articles recognized in the United States pharmacopoeia and national formulary, or any supplement to them, (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals, (3) articles, other than food, intended to affect the structure or any function of the body of humans or other animals, and (4) articles intended for use as a component of any of the foregoing articles other than devices or their components, parts, or accessories (secs. 901.85(D) and 3715.01, not in the

bill). "Pulling contest" means a competition held in this state by a sponsor that involves horses or teams of horses that drag a sled or other mechanism with weight on the sled or mechanism and includes any variation on that type of competition specified by rules adopted by the Director under the bill (sec. 901.85(A)). Finally, the bill defines "sponsor" as any of the following: (1) a county or independent agricultural society organized under current law, (2) the Ohio State Fair, or (3) any other public or private entity sponsoring a pulling contest (sec. 901.85(C)).

Penalties for violating the prohibition

Under the bill, a person who violates the prohibition against entering or driving a horse that has a drug in the horse's body in a pulling contest must be ordered by the Director to return to the sponsor of the contest, not later than 30 days after receipt of notification of the violation, any prizes awarded to the person with respect to the contest at which the violation occurred. If a hearing is conducted concerning a violation in accordance with rules adopted by the Director under the bill and, after the hearing, a violation is sustained, the Director immediately must order the person who violated the prohibition to return to the sponsor of the pulling contest at which the violation occurred, not later than 30 days after the hearing, any prizes awarded to the person.

The person also may be required by order of the Director to perform public service in accordance with rules adopted under the bill. In addition, the person cannot enter or drive a horse in a pulling contest for the following periods after the violation occurred and must pay a fine to the Director as follows: (1) on a first violation, one year and \$1,000, (2) on a second violation, two years and \$2,000, and (3) on a third or subsequent violation, five years and \$3,000. A sponsor must not allow a person who has violated the prohibition to enter or drive a horse in a pulling contest while the person is serving such a suspension. (Sec. 901.88(B).)

The bill specifies that all of above provisions must be enforced in accordance with rules adopted by the Director under the bill (sec. 901.88(D)).

The bill also specifies that, not later than 30 days after notification of a violation of the prohibition or the conclusion of a hearing, whichever is applicable, a person who violates the prohibition must pay the appropriate fine to the Director. If the Director orders a person to return prizes awarded by a sponsor at a pulling contest and the person fails to return the prizes within the prescribed time, the Director must order the person to pay a fine of \$500. The Director must deposit all fine moneys in the state treasury to the credit of the Pulling Contest Sampling and Testing Fund created under the bill. (Sec. 901.88(C).)

Appeal

A person who allegedly has violated the prohibition against entering or driving a drugged horse in a pulling contest may appeal the Director's order issued in response to the alleged violation to the Court of Common Pleas of Franklin County in accordance with the Administrative Procedure Act (sec. 901.88(E)).

Testing and sampling for the presence of drugs or other harmful conditions

The bill requires the Director, at each pulling contest, to cause at least one horse that is entered in the pulling contest to be tested randomly in accordance with the bill's provisions for the presence of drugs in the horse's body. In addition, the Director may cause such a test to be conducted on any horse that is entered in a pulling contest when he reasonably suspects that the prohibition against entering or driving a drugged horse in such a contest has been violated or that the horse's health, safety, or welfare may be threatened. (Sec. 901.87(B).)

Persons who will perform sampling and testing

Under the bill, the Director may designate employees of the Department of Agriculture, employees of the United States Department of Agriculture, licensed veterinarians, or employees or students of an approved or accredited veterinary school or college to perform sampling and testing. The sponsor or its approved veterinarian may designate persons to assist the Director or his designee in the sampling and testing. The Director also may contract with laboratories, universities, or other persons or institutions, both public and private, to perform the testing. (Sec. 901.87(B).)

Fees for sampling and testing

A sponsor may charge each person who enters a horse in a pulling contest a reasonable fee for purposes of defraying actual and necessary expenses associated with taking samples and testing them. The fee may be in an amount established by rules adopted by the Director under the bill. The sponsor must forward all moneys that it collects from the fees to the Director, who must deposit them in the state treasury to the credit of the Pulling Contest Sampling and Testing Fund. (Sec. 901.87(C).)

Rendering of assistance by horse's owner or custodian during sampling and testing

While the Director or his designee is sampling or testing a horse, the owner or custodian of the horse must render assistance in accordance with current law that prohibits a person from concealing or attempting to conceal an animal during an inspection and that requires the owner or custodian to stabilize the animal when

requested to do so. A person who refuses to cooperate with the Director or his designee in the sampling or testing of a horse must be disqualified by order of the Director from participation in the pulling contest in which the horse is entered. The person may appeal the order to the Court of Common Pleas of Franklin County in accordance with the Administrative Procedure Act. (Sec. 901.87(D).)

Rulemaking

The bill specifies that rules adopted under it must apply to every pulling contest and to every sponsor (sec. 901.86(C)). The bill also clarifies that nothing in it precludes a sponsor from adopting rules or written policies for the governance and administration of its own pulling contest that do not conflict with the bill or rules adopted under it or from taking any disciplinary action in addition to disciplinary action required under the bill or rules adopted under it (sec. 901.86(D)).

Mandatory rulemaking

The bill requires the Director, in accordance with the Administrative Procedure Act, to adopt rules that establish all of the following:

(1) Procedures that are necessary for the enforcement by the Director of the prohibition against entering or driving a drugged horse in a pulling contest and that provide persons who allegedly have violated the prohibition with notice and an opportunity for a hearing;

(2) The amount of the fee that a sponsor may charge a person who enters a horse in a pulling contest for purposes of defraying the necessary and actual expenses associated with taking samples and testing horses for drugs;

(3) Authorization of drugs that do not enhance performance in pulling contests to be present in certain quantities in the bodies of horses entered in a pulling contest;

(4) Provisions that prohibit the artificial enhancement of a horse's performance at a pulling contest and associated penalties for violations of those provisions;

(5) An entry form for a pulling contest that contains provisions stating that a person who enters a horse in a pulling contest consents to the Director's or his designee's taking blood and urine samples from the person's horse and testing for drugs and the Director's or his designee's examination of the person's horse for health, safety, and welfare purposes; and

(6) Any other provisions necessary to protect the health, safety, or welfare of horses entered in a pulling contest or necessary for the administration of the bill (sec. 901.86(A)).

The bill requires the Director to furnish to sponsors of pulling contests copies of the entry form established in the rules. A sponsor must require each person who is entering the sponsor's contest to complete the form. (Sec. 901.87(A).)

Discretionary rulemaking

The bill authorizes the Director, in accordance with the Administrative Procedure Act, to adopt rules that do both of the following: (1) specify variations on the type of competition that satisfies the definition of "pulling contest," and (2) establish public service requirements for persons who violate the prohibition against entering or driving a drugged horse in a pulling contest (sec. 901.86(B)).

Pulling Contest Sampling and Testing Fund

The bill creates the Pulling Contest Sampling and Testing Fund in the state treasury. All pulling contest entry fees that are forwarded to the Director and all fines paid as a result of a violation of the prohibition against entering or driving a drugged horse in a pulling contest must be deposited into the Fund. Moneys credited to the Fund must be used exclusively to defray actual and necessary expenses associated with taking samples from horses entered in pulling contests and testing the samples for drugs. (Sec. 901.89.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-31-01	p. 100

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