**ENGROSSED**

**HOUSE BILL No. 1196**

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DIGEST OF HB 1196 (Updated March 13, 2019 2:55 pm - DI 106)

**Citations Affected:** IC 4-31; IC 4-35.

**Synopsis:** Indiana horse racing commission. Requires the Indiana horse racing commission (IHRC) to adopt rules establishing the confidentiality of personal information on license applications. Prohibits a veterinarian appointed by the IHRC or employed by a permit holder from providing treatment, except in case of emergency, for a horse of the same breed registered for racing on the track of the veterinarian's employment, and prohibits an owner or trainer from paying compensation to a veterinarian for prohibited treatment. Provides that the IHRC may suspend an individual following a positive test of a horse for a foreign substance, abnormal levels of a natural substance, or impermissible medications. Authorizes the IHRC to approve and accept proof of financial responsibility from a permit holder before the beginning of a horse racing meeting in an alternative manner to posting a bond. Changes references to the secretary of the IHRC to the executive director of the IHRC. Provides for the testing of biological samples other than the blood, urine, and saliva of a horse. Authorizes the IHRC to establish accounts within the gaming integrity fund as necessary to efficiently pay expenses incurred in the testing of biological samples. Makes technical corrections.

**Effective:** July 1, 2019.

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**Cherry, Eberhart, GiaQuinta, Austin**

(SENATE SPONSORS — ALTING, LANANE)

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**SENATE ACTION**

February 27, 2019, read first time and referred to Committee on Public Policy. March 14, 2019, amended, reported favorably — Do Pass.

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EH 1196—LS 6476/DI 92
First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in this style type. Also, the word NEW will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in this style type or this style type reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

ENGROSSED

HOUSE BILL No. 1196

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-31-2-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.7. "Biological sample" refers to any fluid, tissue, or other substance obtained from a horse through an internal or external means to test for foreign substances, natural substances at abnormal levels, and prohibited medications. The term includes blood, urine, saliva, hair, muscle tissue collected at a necropsy, semen, and other substances appropriate for testing as determined by the commission.

SECTION 2. IC 4-31-2-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 21. "State testing barn" means the facility provided by each racetrack and approved by the commission as the location where all horses designated for testing shall be taken by the trainer or the trainer's representative immediately following a race so that necessary blood or urine biological samples may be obtained from the horse.

SECTION 3. IC 4-31-2-23 IS REPEALED [EFFECTIVE JULY 1,
2019]. Sec. 23. “Test sample” means a body substance taken from a horse for the purpose of analysis, under the supervision of the commission or state veterinarian and in the manner prescribed by the commission.

SECTION 4. IC 4-31-5-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6.5. (a) At least sixty (60) days before the commencement of a horse racing meeting, a permit holder shall:

(1) post a bond in an amount not to exceed one million dollars ($1,000,000), as determined by the commission; or

(2) submit to the commission alternative proof of financial responsibility approved by the commission.

(b) The bond, which A bond posted under subsection (a)(1):

(1) is subject to the approval of the commission; and

(2) must be payable to the commission as obligee for use in payment of the applicant's financial obligations to the commission or the state and other aggrieved parties, as determined by the rules of the commission.

SECTION 5. IC 4-31-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. The commission shall adopt rules under IC 4-22-2 establishing the following:

(1) Procedures for license applications. and

(2) The confidentiality of personal information on license applications, including an applicant's date of birth and home address.

(2) (3) License fees.

SECTION 6. IC 4-31-8-4, AS AMENDED BY P.L.268-2017, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) A permit holder shall provide an alcohol breath-testing device that is approved by the commission and operated by a person certified to use such a device. All drivers, jockeys, judges, starters, assistant starters, and drivers of starting gates shall submit to a breath test at each racing program in which they participate. In addition, the secretary executive director of the commission, a member of the commission, a commission investigator, the stewards, or the track chief of security may order a licensee to submit to a breath test at any time there is reason to believe the licensee may have consumed sufficient alcohol to cause the licensee to fail a breath test.

(b) A person whose breath test shows a reading of an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to more than five-hundredths (0.05) gram of alcohol per two hundred ten (210) liters of the person's breath, is subject to the following sanctions:

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(1) A driver or jockey may not be permitted to drive or ride and shall be suspended under the rules of the commission.

(2) A judge, a starter, an assistant starter, or a driver of the starting gate shall be relieved of all duties for that program, and a report shall be made to the commission for appropriate action.

(3) Any other licensee shall be suspended, beginning that day, under the rules of the commission.

(c) The stewards and judges may, on behalf of the commission, impose the following sanctions against a licensee who refuses to submit to a breath test:

(1) For the first refusal, a civil penalty of one hundred dollars ($100) and a seven (7) day suspension.

(2) For a second refusal, a civil penalty of two hundred fifty dollars ($250) and a thirty (30) day suspension.

(3) For any additional refusals to submit to a breath test, a civil penalty of two hundred fifty dollars ($250), a sixty (60) day suspension, and referral of the case to the commission for any further action that the commission considers necessary.

(d) A sanction under subsection (c) may be appealed to the commission. An appeal stays the sanction until further action by the commission. The appeal must be heard by the commission within thirty (30) days after the date of the appeal.

SECTION 7. IC 4-31-11-6 IS REPEALED [EFFECTIVE JULY 1, 2019].

SECTION 8. IC 4-31-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

(a) The judges, the stewards, a commission veterinarian, a member of the commission, or the secretary executive director of the commission may order a blood test or urine test, or both, test of a biological sample on a horse for the purpose of analysis.

(b) A blood specimen or urine specimen, or both, biological sample shall be taken from the following horses after the running of each race:

(1) The horse that finishes first in each race.

(2) Any other horses designated by the judges, the stewards, a commission veterinarian, a member of the commission, or the secretary executive director of the commission. The judges and veterinarian shall designate for the taking of such a specimen a biological sample a horse that races markedly contrary to form.

SECTION 9. IC 4-31-12-6, AS AMENDED BY P.L.268-2017, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

(a) The commission:
(1) shall appoint, at its cost, a veterinarian licensed to practice in Indiana to take or supervise the taking of specimens biological samples under section 5 of this chapter;

(2) shall approve a laboratory for the analysis of those specimens; a biological sample taken under section 5 of this chapter; and

(3) may require that a specimen biological sample taken under section 5 of this chapter be analyzed.

(b) The cost of analyzing the primary blood or urine specimens biological samples shall be borne by the commission.

(c) The commission may appoint, at its cost, veterinarians or other persons to supervise all activities in the state testing barn area and to supervise the practice of veterinary medicine at all racetracks in Indiana.

(d) The commission shall employ or contract for assistants to aid in securing specimens biological samples at each racetrack. These assistants shall have free access, under the supervision of the commission's veterinarian, to the state testing barn area. The permit holder shall, in the manner prescribed by the rules of the commission, reimburse the commission for the salaries and other expenses of the assistants who serve at the permit holder's racetrack.

SECTION 10. IC 4-31-12-7, AS AMENDED BY P.L.268-2017, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) A veterinarian appointed by the commission or employed by a permit holder may not, during the period of the veterinarian's employment, do the following with respect to a breed of horse registered with the commission for racing at the track of the veterinarian's employment:

(1) Treat or issue prescriptions for a horse, on the grounds of or registered to race at a track; except in case of emergency. or to

(2) Perform an endoscopic examination on a horse the day the horse is scheduled to race.

A full and complete record of an emergency treatment or a prescription authorized by subdivision (1) shall be filed with the stewards or judges.

(b) Except as provided in subsection (c), an owner or trainer may not directly or indirectly employ or pay compensation to a veterinarian who is employed by the commission or a permit holder with respect to the care of a horse belonging to a breed of horse registered with the commission for racing at the track of the veterinarian's employment.

(c) An owner or trainer may pay a veterinarian employed by the commission or a permit holder for an endoscopic examination.
permitted under subsection (a).

SECTION 11. IC 4-31-12-8, AS AMENDED BY P.L.34-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) As used in this section, "milkshake or bicarbonate loading" means a bicarbonate or alkaline substance, administered to a horse by any possible means, that elevates the horse's bicarbonate level or pH level above those existing naturally in the untreated horse at normal physiological concentrations as determined by the commission.

(b) A finding by the chemist or an authorized commission employee that a milkshake or bicarbonate loading or a foreign substance, other than a medication permitted by the rules of the commission, is present in the test biological sample shall be considered:

(1) a positive test and a violation of section 2 of this chapter; and
(2) prima facie evidence that:
(A) the milkshake or bicarbonate loading or foreign substance was administered and carried or attempted to be carried in the body of the horse while participating in a race; and
(B) the trainer and the trainer's agents responsible for the care and custody of the horse have been negligent in the handling or care of the horse.

(c) The commission may establish the concentration level that is an unacceptable concentration level for substances that it considers necessary for the detection of a milkshake or bicarbonate loading under this section.

SECTION 12. IC 4-31-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) The commission veterinarian may order a post-mortem examination of:

(1) each horse that:
(A) suffers a breakdown on the racetrack, in training, or in competition; and
(B) is destroyed; and
(2) each horse that expires under suspicious or unusual circumstances while stabled on a racetrack under the jurisdiction of the commission;

to determine the injury or sickness that resulted in euthanasia or natural death.

(b) A post-mortem examination under this section shall be conducted by a veterinarian approved by the commission, at a time and place acceptable to the commission veterinarian.

(c) Test Biological samples specified by the commission veterinarian for testing shall be obtained from the carcass upon which
the post-mortem examination is conducted and shall be sent to a laboratory approved by the commission for testing for foreign substances and natural substances at abnormal levels. However, blood, urine, test and similar biological samples shall be procured for testing before euthanasia when practical.

(d) The commission shall pay all costs involved in a post-mortem examination ordered by the commission or the commission veterinarian.

(e) A written record shall be filed with the commission veterinarian at the completion of each post-mortem examination. The record must contain all information normally contained in a post-mortem report, as well as any other information specifically requested by the commission veterinarian.

SECTION 13. IC 4-31-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. The commission may direct the official laboratory to retain and preserve by freezing biological samples for future analysis.

SECTION 14. IC 4-31-12-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. (a) This section applies to a horse entered to race at a track operated under a permit issued by the commission.

(b) The following provisions apply if the analysis of a blood specimen or urine specimen biological sample shows that a person has violated section 2 of this chapter:

(1) The owner of the horse from which the specimen biological sample was obtained shall forfeit the purse and any trophy or award.

(2) If the purse was paid before the maker of that payment was notified of the result of the analysis, the horse, the owner, and the trainer of the horse are may be suspended. A permit holder is not required to make any other distribution of the purse until the refund has been made. The judges shall disqualify the horse from which the positive specimen biological sample was obtained and the remaining horses shall be advanced accordingly. The horse ultimately designated as the winner of the race shall be awarded any additional portions of the purse that remain following the disqualification if there are not enough unoffending horses to share the purse.

(3) A suspension made under this section continues until the purse is refunded and properly redistributed or for any other period determined by the commission.

SECTION 15. IC 4-31-12-14 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. The trainer of a horse that is the winner of a race or from which the judges order a specimen biological sample to be taken shall see that the horse is taken directly to the state testing barn as soon as the race in which the horse competed has been completed.

SECTION 16. IC 4-31-12-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. (a) The owner, the trainer, or a representative of the owner or trainer must be present in the quarantine area when a saliva, urine, or blood specimen biological sample is taken from a horse, and must remain until the specimen is sealed. The official tag attached to a specimen biological sample shall be signed by the owner, the trainer, or the owner’s or trainer’s representative as witness to the taking of the specimen biological sample. The judges shall immediately suspend a person who:

1. willfully fails to be present at the taking of a specimen biological sample;
2. refuses to allow the taking of a specimen biological sample; or
3. otherwise interferes with the taking of a specimen biological sample;

and the matter shall be referred to the commission for any further penalty that the commission considers appropriate.

(b) An owner or trainer who is not present either in person or by representative when a specimen biological sample is taken from a horse may not claim that the specimen biological sample tested was not the specimen biological sample taken from the horse.

SECTION 17. IC 4-35-8.7-3, AS AMENDED BY P.L.86-2018, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) The gaming integrity fund is established.

(b) The fund shall be administered by the Indiana horse racing commission. The Indiana horse racing commission may establish accounts within the fund as necessary to efficiently pay expenses incurred under IC 4-31-12.

(c) The fund consists of gaming integrity fees deposited in the fund under this chapter and money distributed to the fund under IC 4-35-7-12.5 and IC 4-35-7-15. For each licensee, the Indiana horse racing commission shall annually transfer:

1. seventy-five thousand dollars ($75,000); multiplied by
2. the number of racetracks operated by the licensee;

from the fund to the Indiana state board of animal health to be used by the state board to pay the costs associated with equine health and equine care programs under IC 15-17.

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(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) Money in the fund may be used by the Indiana horse racing commission only for the following purposes:

(1) To pay the cost of taking and analyzing equine specimens biological samples under IC 4-31-12-6(b) or another law or rule and the cost of any supplies related to the taking or analysis of specimens. biological samples.

(2) To pay dues to the Drug Testing Standards and Practices (DTSP) Committee of the Association of Racing Commissioners International.

(3) To provide grants for research for the advancement of equine drug testing. Grants under this subdivision must be approved by the Drug Testing Standards and Practices (DTSP) Committee of the Association of Racing Commissioners International or by the Racing Mediation and Testing Consortium.

(4) To pay the costs of post-mortem examinations under IC 4-31-12-10.

(5) To pay other costs incurred by the commission to maintain the integrity of pari-mutuel racing.

(g) Money in the fund is continuously appropriated to the Indiana horse racing commission to carry out the purposes described in subsection (f).
COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1196, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, line 8, strike "are" and insert "may be".
Page 6, delete lines 20 through 24.
Page 8, delete lines 10 through 41.
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1196 as introduced.)

SMALTZ

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1196 be amended to read as follows:

Page 1, line 7, delete "muscle tissue," and insert "muscle tissue collected at a necropsy, ".

(Reference is to HB 1196 Digest Correction, as printed February 1, 2019).

CHERRY

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COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred House Bill No. 1196, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 10 through 13.
Page 3, between lines 26 and 27, begin a new paragraph and insert:
"SECTION 7. IC 4-31-11-6 IS REPEALED [EFFECTIVE JULY 1, 2019]. Sec. 6. Each development committee may elect one (1) member to serve as chairman and one (1) member to serve as secretary."

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Page 4, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 10. IC 4-31-12-7, AS AMENDED BY P.L.268-2017, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) A veterinarian appointed by the commission or employed by a permit holder may not, during the period of the veterinarian's employment, do the following with respect to a breed of horse registered with the commission for racing at the track of the veterinarian's employment:

(1) Treat or issue prescriptions for a horse, on the grounds of or registered to race at a track, except in case of emergency, or to

(2) Perform an endoscopic examination on a horse the day the horse is scheduled to race.

A full and complete record of an emergency treatment or a prescription authorized by subdivision (1) shall be filed with the stewards or judges.

(b) Except as provided in subsection (c), an owner or trainer may not directly or indirectly employ or pay compensation to a veterinarian who is employed by the commission or a permit holder with respect to the care of a horse belonging to a breed of horse registered with the commission for racing at the track of the veterinarian's employment.

(c) An owner or trainer may pay a veterinarian employed by the commission or a permit holder for an endoscopic examination permitted under subsection (a)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1196 as reprinted February 5, 2019.)

ALTING, Chairperson

Committee Vote: Yeas 9, Nays 0.

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