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December 5, 2021

Representative Roger Hauck
Chair, Regulatory Reform
Michigan House

Via email: Molly Wingrove, mwingrove@house.mi.gov

**Re: Opposition to SBs 396, 397, 398, 399, House Regulatory Reform Committee Meeting,
December 7, 2021**

Dear Rep. Hauck, Committee Members and Bill Sponsors:

Thank you for the opportunity to provide information to the committee. Attorneys for Animals, Inc. (AFA) is a Michigan non-profit and 501(c)(3) organization of legal professionals and animal advocates. The organization's Board of Directors voted to **oppose SBs 396-399**.

This bill props up the dying Michigan horse racing industry. This package would allow pari-mutuel wagering on horse races run in the past (SB 396); allow video lotteries at racetracks (SB 397; SB 399 revised sentencing guidelines); and, conversely, remove the ban on casinos televising simulcast horse races if the casino operator obtains a third party facilitator license (SB 398). The net result is to facilitate gambling on horses by those who simply like to gamble; and provide incentives to horse racing industry operators who, recent history shows, do not have a viable business model absent substantial intervention by this legislature.

We note that the substitute bill that passed the Senate tempers some of the more egregious provisions of the funding scheme in the bill that was introduced (e.g., makes the bill more palatable by increasing the percentage of taxes paid to the local government, allocates some of the proceeds to go to the State School Aid Fund). These changes, while making a bad bill less bad, does not change our position that the State should not be allocating resources to this industry.

The horse racing industry needs government support to survive. Supporting this industry means a lost opportunity for the state to use its scarce resources for the public benefit. Consider that Gov. Wolf of Pennsylvania earlier this year proposed "a plan to divert millions of dollars that prop up Pennsylvania's anemic horse racing industry in order to spend the money on a major new college tuition program. In his new budget plan, Wolf has proposed to shift \$199 million flowing from a special racing fund to pay for the educational assistance."¹ This plan would provide direct aid to support college students.

Is this an industry that the Michigan Legislature should choose to support, given the state's limited resources? We say no.

The industry is cruel to horses: The number of horses dying at the Santa Anita Racetrack in California since late 2018 has received wide attention. The alarming rate of death continued into 2020 (until stopped by the pandemic) and has picked up again in the 2021 season, where 20 horses have died as of November 25.ⁱⁱ But our own state has a recent history of horse racing deaths as well. A horse died in September 2019ⁱⁱⁱ at Northville Downs, Michigan’s sole remaining track. Another died there in July 2018.^{iv} Since 2015, when only one racetrack (Hazel Park Raceway) and one harness-racing track (Northville Downs) were open, reports obtained through FOIA requests reveal:

- 2017: 5 deaths at Hazel Park (data didn’t include deaths from training accidents, or from the harness track).^v
- 2016: 3 deaths (all Hazel Park)^{vi}
- 2015: 3 deaths (2 at Hazel Park, 1 at Northville)^{vii}

The causes of death include “suspensory rupture”, the horse having been run in four races prior to dying and “epistaxis” (bled from the nose); “large vessel rupture”; “post-race, ruptured artery”^{viii}.

Horse racing faces existential threats: These include doping/drugging of horses and the public’s negative reaction to horse deaths on racetracks. For example:

This year’s Kentucky Derby winner tested positive for a banned drug earlier this month, less than a week after the race.^{ix}

The Horseracing Safety and Integrity Act^x passed Congress and signed into law Dec. 2020; this bill addresses doping issues by setting national standards and having the Anti-Doping Authority (used for Olympics, etc.) conduct tests. This bill had been introduced for 5+ years and finally passed when Sen. Mitch McConnell decided to support it. It is reported that he believed the measure was necessary to save the industry (even so, some industry groups and states are suing to prevent the law from going into effect, claiming it is unconstitutional; the suit is pending.)

Economics: The customer base has disappeared; Michigan has gone from 8 tracks in 2000 to one in 2021. Why would it come back now, and remain long-term? In testimony before the Senate Agriculture committee, proponents presented the positive economic impact in a conclusory manner but provided no studies to back up their rosy predictions. This committee is likely to hear similar testimony. We urge committee members not to take at face value unsubstantiated claims by the industry.

Even pro-industry sources remain skeptical that adding casinos will do anything other than cause racetracks to rely on that income at the expense of and – most concerning to us – to the detriment of the core business and the horses upon whom the industry has been built and who will bear the added brunt of more injuries and deaths.^{xi}

We refer the Committee members to “*Horse Racing in Michigan – A Primer*”, *House Fiscal Agency, June 2017*^{xii} for an assessment of the industry:

“...[S]tarting in the 1990s and through 2016, horse racing in MI has been in general decline.”^{xiii} It references an earlier Fiscal Agency publication: “The decline in MI horse racing continued even after the enactment of the Horse Racing Law of 1995. To quote from a 1999 House Fiscal Agency publication: ‘*The Horse Racing Law of 1995 was enacted with*

the intent to provide self-supporting financial assistance to the ailing horse racing industry in MI – primarily through elimination of the wager tax on live racing and authorization of full-card simulcasting. Many key economic and fiscal variables were positively impacted immediately after passage of the law in 1995. Some of these impacts were short-lived, however, as a number of the key variables, after an initial increase, continued to decline. Since enactment of the law, the industry has faced serious challenges from the broader gambling/entertainment market, prompting many within the industry to advocate for new revenue-generating options that will allow MI’s horse racing industry to remain competitive with other gambling/entertainment outlets.’”^{xiv}

These bills prop up a dying industry and are based on the unproven assumption that so-called “racinos”, by combining horse racing with other betting are the panacea that will save the industry. This is questionable at best.

If these bills pass, it will because the legislature is betting that racinos will transform the industry and is willing to ignore the harm caused to horses. Any revenue to state and local governments from the new kind of gambling this bill would authorize cannot be seen in a vacuum. The pain and suffering caused to horses by this industry is of questionable financial benefit to the state. The Michigan Legislature should not be in the business of supporting this type of endeavor.

Conclusion: It is poor public policy to continue to support an industry:

- unable to compete in the open market;
- whose case for support is based on unsubstantiated/unattributed economic studies;
- that uses horses to their detriment;
- whose customer base is disappearing;
- which has seen public outrage at the number of horses who die;
- whose very existence is in question due – not to competition from casinos – but to the doping/drugging scandals that have beset the industry for decades, and continuing up to the very present time

We urge committee members to consider whether this legislature should pass measures that only postpone its demise. We urge that this bill not be reported out of committee.

Very Truly Yours,



Beatrice M. Friedlander, JD
President

ⁱ <https://www.inquirer.com/news/wolf-horse-racing-subsidy-purses-disaster-college-tuition-20210203.html>

ⁱⁱ <https://losangeles.cbslocal.com/2021/11/28/racehorse-dies-at-santa-anita-park-20th-such-incident-this-year/> Note that when the Senate was considering this bill in the spring, “only” 8 horses had died as of

April 19. Santa Anita is just a glaring example; a December 2, 2021 Baltimore *Sun* article notes there have been 8 deaths at a Maryland race track since October, <https://www.baltimoresun.com/sports/horse-racing/bs-sp-horse-racing-fatalities-laurel-park-20211202-mimcqrxx5bovpvd4wed3mxgga-story.html>

ⁱⁱⁱ <https://horseracingwrongs.org/category/death-reports-michigan/>, a horse named Smarter Yet died on September 14, 2019 due to “warming up for a race – cardiovascular collapse” per the Michigan Gaming Control Board, via a FOIA request

^{iv} *Ibid*, a horse named Ounce Hanover died on July 21, 2018 due to “fractured front leg” per the Michigan Gaming Control Board, via a FOIA request

^v <https://horseracingwrongs.org/2018/02/03/suspensory-rupture-carpus-fracture-epistaxis-hazel-parks-dead-2017/>

^{vi} <https://horseracingwrongs.org/2017/02/08/killed-at-hazel-park-2016/>

^{vii} <https://horseracingwrongs.org/2016/01/30/dead-in-michigan-2015/>

^{viii} “Suspensory rupture”, the horse having been run in four races prior to dying and “epistaxis” (bled from the nose), *supra* at iv; “large vessel rupture”, *supra* at v; “post-race, ruptured artery”, *supra* at vi

^{ix} <https://www.nytimes.com/2021/05/09/sports/horse-racing/bob-baffert-kentucky-derby-medina-spirit-drug-test.html>

^x <https://www.congress.gov/bill/116th-congress/house-bill/1754/text>

^{xi} Three examples:

JBK International, a consultant to the gaming industry asks “Can these racino operations survive long-term across the country?”, <https://jkb-intl.com/are-racino-operations-still-viable-investments/>

The “senior blogger” at *The Little Red Feather Racing Blog* is a skeptic. Coming at the issue from a different perspective, he argues that the easy money from casinos will cause the industry to become complacent, and result in many track closures: “Horse racing has basically been relegated to a line item on a set of financial statements and treated as a cost of business. The day will come when racing isn’t playing with house money anymore, and that is when the real decisions are made. You have to know when to hold’em, know when to fold’em!” <http://blog.littleredfeather.com/horse-racing-partnerships-101-racinos>

“‘Racing is on life support,’ said Jonathan Stettin, a professional handicapper and columnist for the *pastthewire.com* website. ‘The decline in fan base has led to an environment where the tracks that survive and thrive are the ones with casinos, slots, other unconnected sources of revenue.’”

<https://www.oregonlive.com/business/2021/04/return-of-horse-racing-makes-for-a-crowded-field-in-the-contest-for-oregon-gambling-dollar.html>

^{xii} https://www.house.mi.gov/hfa/PDF/Agriculture/FiscalFocus_Horse_Racing_in_Michigan.pdf (page 13 of 24)

^{xiii} *Supra* at page 1

^{xiv} *Supra* at pages 13-14 (footnote omitted, italics in original)