

# Proposed Interstate Racing and Wagering Compact: Years 1-5

Position Paper of  
New York State Racing and Wagering Board (“NYSRWB”)

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## **Introduction about Steering Committee**

An Interstate Racing and Wagering Compact Steering Committee has completed its draft of a model bill that can be enacted by each racing state to create a new interstate compact. The legal authority to form interstate compacts is in the U.S. constitution. There are hundreds of interstate compacts, including the racing license compact. This bill is pending in New York and has been endorsed by the Association of Racing Commissioners International, Inc. (RCI).

The compact uses the existing powers of the states to reorganize how certain regulatory decisions are made without creating an additional layer of oversight that would prove costly to all industry participants. It can function with existing staff and resources of the state racing commissions and their national organization, RCI. In essence, this can be like the National Racing Commission that some have advocated, while recognizing the fact that individual states have the ultimate authority in these matters and racing participants must be able to voice concerns and influence the policies that affect them. All industry groups will maintain their ability to be involved in the rule-making process and to have their positions heard and considered.

The compact helps achieve uniformity for industry by no longer forcing each state to adopt all of its rules in isolation. It gives industry a central forum to present its proposals. It can help states adopt a single uniform rule or to accept in unison an industry-written national rule book.

It does this by running a common rule-making process for member states. The process is strictly voluntary; a state need not participate and is not bound by any rule it does not adopt. It only coordinates existing powers; state racing commissions still follow the laws and enforce the rules of each state. Industry participants keep the same role as for making other state rules and they must be consulted before a state can adopt a rule through the compact. But through the compact, making a uniform rule in each state would be coordinated in a process managed by compact officials. States and industry participants will be able to work on the same rule at the same time. The compact also gives member states a forum in which to form and adopt programs, such as to share procurements or services. It will add to the 15 states (see [www.racinglicense.com](http://www.racinglicense.com)) that offer owners, trainers, drivers, jockeys, and other participants a national racing license.

This compact will not solve all problems, and quite frankly some issues are too contentious to be resolved by a compact, unless and until industry and regulators can reach a consensus. The compact does not compel a solution, it only provides a mechanism to act once a consensus is reached. It is designed to achieve more uniformity, without sacrificing quality, by correcting the long-standing industry problem of a lack of a mechanism that allows us to work together.

It will take time to enact this state-by-state but it is a means to facilitate uniform regulation and protect the rights of each state to oversee racing as an alternative to federal regulation of racing. A model bill has been drafted with wide-ranging input to avoid each legislature having to make changes. The compact has to be adopted into law by six member states before it can start. The quickest way to accomplish this is for the industry and its regulators in a particular state to be on the same page so the legislative proposal is non-controversial and can pass in a timely manner.

## The Case for an Interstate Racing and Wagering Compact

### Situation Analysis

After decades of racing and wagering regulations being promulgated on a state-by-state basis, the racing industry's participants are subject to inconsistent rules and penalties. This leaves the industry vulnerable to criticism that it has no central governance or "rule book" and no mechanism to effect comprehensive reform -- to protect horse and jockey safety and promote integrity -- on a national scale. This puts us in danger of losing core bettors and fans.

- Horseracing needs uniform rules and a mechanism to create and implement them.

### Proposed Solution: A Multi-State Compact

A multi-state compact – a contract between states to address issues of common concern – would enable the horse industry to achieve uniformity in key areas and be an active, ongoing participant in rule-making.

- A compact enables uniform rules without federal intervention or a separate approach in each state.

### Benefits for Participants in Racing

The Steering Committee approach has led to changes in the New York legislation, drafting a model bill that expressly addresses the concerns of industry and regulators.

- **All participants**, from racetracks to bettors, compete with each other but can use a central body to implement global agreements.

- The compact makes it possible to adopt solutions that work when only all cooperate.
- The compact maintains local control while removing a major obstacle to uniformity.

- **Horsemen** want the better rules and uniformity that a central body can bring but without risking access or established protections for horsemen's interests.

- The compact does not work to adopt rules that depart from a national consensus.
- The compact has more safeguards for industry than a state rule-making process.

- **Major industry stakeholders** want a central regulatory body where they can present proposals (and inform regulators) that has the ability to take action and ensure that rules are implemented in a timely manner.

- Industry works hard to improve racing with task forces, committees, and medication studies, but the authority to make rules lies with each state.
- The compact puts the states in position collectively to take effective action.

- **State Legislatures** want to avoid federal intervention, which a compact does by organizing the states, without losing state control (even to withdraw) or voiding any existing law or policy.
  - Congress is actively watching for compact progress.
  - The compact does not change racing regulation in a state, it only coordinates with others.
- **State Racing Commissions** have greater interest in rules beyond the state border because of the emergence of issues like off-shore wagering that an individual state cannot regulate, and the growing interconnection of the states through interstate simulcasting, racing, and wagering.
  - The compact makes it easier for a state, when it wants, to act in concert with others.
  - The compact does not grant any new substantive power to the state racing commission, or shift policy or enforcement authority in or from a state.

This compact may realize important economies of scale for racing commissions, helping them to eliminate redundant efforts that divert funds away from essential functions like drug testing. By creating a structure that enables commissions to pool resources and conduct multi-state procurements, industry proposals to reform the drug testing laboratories can be addressed. Redundancies in effort are no longer affordable as state racing commissions must economize.

## **Basic Facts about the Compact**

### **What the Compact Will Do**

Uniformity depends on a workable system, which this creates, and good leadership. State consent is required for rules and programs to take effect in each state. A rule cannot be proposed in the compact system without the collaboration of industry participants, who also have the same access and rights of participation that apply in standard state rule making.

State legislatures still establish state law and policy; state racing commissions still follow it and adopt and enforce the state rules. If industry and regulators can reach a compact consensus to propose the same rule in all states, then the proposed rule undergoes standard rule-making procedures in each state but with nationwide sharing of public comments, and discussion, supervised by compact officials. It is possible to fund the compact with fees it may create. The compact has all the rights and powers of the licensing compact, which issues an occupational license which can be used in most states and will be absorbed once its member states adopt the new compact.

### **What It Won't Do**

The model bill does not usurp legislative authority or create broad authority for any state racing commission. A state racing commission can only adopt rules on subjects it is already authorized to regulate pursuant to state law. No rule can be adopted by a state racing commission through the compact unless it is already authorized to adopt a corresponding state rule. All of the state laws that currently define a state racing commission's scope of authority, and all current

statutory directives (e.g., race dates, types of wagers, license criteria), continue to apply and govern the regulation of racing and wagering within each state.

The compact will also not take rule-making authority away from state government and give it to industry participants. This would violate the law in every state, where courts and legislatures have determined that the presence of legal wagering requires state regulatory control.

Although the compact guarantees a better rule-making process and rules, by bringing industry and states together to work on the same rule at the same time, it will work only for matters where a national consensus can be reached. A state racing commission will work with many racing commissions and others from industry, which will reduce oversights, mistakes in judgment, and drafting errors. Compact rules will be adopted after rigorous study and broad input, and reflect the collective wisdom of those who care about racing. Important rules, if not adopted with a national consensus, will at least have been studied by many parties in the full light of day.

The compact will not replace RCI. The compact is a government unit; by statute, each state has one vote. Its officers are chosen from its state representatives not RCI officials. The compact will start by hiring RCI to a temporary management contract, typical with new compacts when member states have an established association. Some states will be in only RCI, so model rules or drug task force meetings will be held jointly and RCI staff will continue a supporting role in program and rule development. RCI will also be useful by staging discussions and speakers and through its President attending numerous industry and regulator events and meetings. As more states join the compact, more current RCI resources will be freed to accomplish more in service of the compact. RCI will never, however, have a direct vote or policy role in the compact.

## **Adopting and Financing the New Compact**

Every compact has two phases, enacting the model bill in various states and operations.

A multi-state compact – a contract between states to address issues of common concern – would enable the horse industry to achieve uniformity in key areas and be an active, ongoing participant in rule-making. All interested persons, public and private, will be able to work on the same problems at the same time in a forum that has the capacity to deliver uniform national solutions.

### **Creating the Compact**

A multi-state compact has to be widely understood before needed support can form to pass a model bill in multiple states.

- Industry funding is needed to finance a robust dialogue and education on the concept.

The Steering Committee projects a need for seed money to circulate the compact idea. Support from a major stakeholder (NTRA) has already funded panel presentations in Tucson, Columbus (OH), and Lexington; costs of the Steering Committee; and invaluable writing and planning assistance from the Council of State Governments. This has won a unanimous endorsement of the model bill from the states in RCI.

The compact concept received praise at the 2009 Jockey Club Round Table Conference and has been endorsed by The New York Racing Association (NYRA) and RCI, and reviewed in depth by the Steering Committee members including Keeneland, NHBPA, TJC, and USTA.

It has been impractical to include all major stakeholders in the Steering Committee or for many leading persons and organizations to be available and participate. Those who were not present, and every interested racing participant, needs the concept presented and to be heard. Many important groups want a spokesperson to appear at meetings to explain the compact, answer questions, and take suggestions. Subject to available funding, the Steering Committee has many members and retained national experts, like those connected with CSG, who can provide information and advice and attend important meetings and briefings.

The best prospect for rapid passage by many states in 2011 and 2012 is to continue to develop and coordinate the lobbying effort under the Steering Committee. A detailed version of this projected process is set forth in Appendix A.

- The Steering Committee will oversee a national lobbying effort that focuses on the support and influence of racing commissions and industry organizations.
- RCI will operate the effort as an RCI Project, accepting funding from interested donors.

The licensing compact's public dialogue began in April 1999 and, following a similar approach, was enacted by ten states within two years and five states since. An outline of the lobbying approach from the New York State Racing and Wagering Board is attached as Appendix A.

### **Operating the Compact**

The operating compact must be self-funded. An interstate compact creates a governmental unit that cannot be funded by the regulated industry. There could be exceptions for a donation for a specific or ad hoc project, e.g., a purchase of equipment, contributions of public service advertising, or extending technology services (as have been donated by NTRA, TOBA, TVG, TJCIS and others to the licensing compact).

It is anticipated that the new interstate compact, building on the existing rule-making efforts of state racing commissions including through their RCI model rules and other processes, can operate effectively without any increased cost for the member states. State racing commissions already meet and share a national staff at RCI, devote state resources to making state rules, and are regularly present at industry meetings and events. A national rule making process is more time consuming and challenging, but this will be offset by the advantage of having input from numerous state and industry sources in a single collective effort, and by economies of scale as everyone focuses on the same rule at the same time. There is no reason to expect increased costs from the adoption of this compact and there is a potential for substantial savings from better regulations and efficient programs.

The Steering Committee has reviewed a draft operational business plan that does not depend on state racing commission or RCI resources to manage the compact and projects an annual expense of \$360,000 for a rules coordinator and support staff. A rules coordinator would track the

progress of the committees, make sure proposed compact rules are correctly fitted into the administrative code of each state, assure posting of proposed rules on a national website, make sure proper procedures are followed (e.g., publication and notice, deadlines, response to public comments), and push for uniformity among states that have not adopted a model rule. Its chosen plan would use the existing resources of RCI, which holds model rule and other committee meetings with industry, and the state racing commissions, which already engage in state rulemaking. If the compact is most successful, however, and becomes frequently used to make rules and programs, it has a projected budget of \$360,000 and the authority to meet its budget to fund a staff and its operations by charging a user fee for its programs, utilizing a fee with the collaboration and consent of industry, or receiving an appropriation from a member state.

The model bill provides that no fee, except for a service provided by the compact, would be imposed without industry consultation, a formal publication and comment period, and consent of the affected licensed horsemen or racetrack. Like each other aspect of the compact, a compact fee cannot apply in a member state unless it has voted to adopt it.

- The compact can accept no funding from industry to operate.
- The compact can create user or other fees, receive appropriations, or operate acceptably within the existing resources of member state racing commissions.

### **Expertise of The Council of State Governments**

The Council of State Governments has played the leading role in revising the initial New York bill into the model bill, in a series of meetings over a period of six months. The efforts of CSG have been spearheaded by Rick Masters, a national legal expert on interstate compacts. Mr. Masters is Special Counsel for Interstate Compacts, its former General Counsel, a law adjunct professor, practitioner, and co-author of the leading legal treatise, “The Evolving Use and Changing Role of Interstate Compacts: A Practitioner’s Guide” (American Bar Association, March 2007). Under his guidance, together with the input of leading industry representatives on the Steering Committee and others and at events in Lexington, Tucson, Columbus and Saratoga, the initial New York proposal has developed into a model bill.

Mr. Masters specifically authored the current provisions guaranteeing that no Legislative authority is usurped under the model bill. He has studied and fully resolved the concerns raised during the Steering Committee process about not shifting policy-making authority or control away from legislatures and ensuring the participation and workability of the compact proposal for all industry and governmental participants. As author of many recent interstate compacts, he has employed certain standard provisions that are time tested and successful. Examples of these provisions are that state racing and wagering laws continue in full force and effect, to limit and define the scope of actions available to each state racing commission (whether under the compact or otherwise), that rule-making is governing by substantial compliance with the Model State Administrative Procedure Act, and that a rule adopted by a state racing commission under the compact is no different than any other state rule. He has also studied and approves the unique provisions adapting the model bill to the circumstances of pari-mutuel racing and wagering.

## **Contributions of the Steering Committee**

Among its many contributions to this project, the Steering Committee has taken the New York proposal -- to coordinate making rules and programs but each state retains its rights -- and made two fundamental upgrades by requiring expressly:

- (1) Racing commission controls a state's vote (delegate has no independent authority);
- (2) Statute requires collaboration with industry participants.

Other changes are express statements in the amended NY bill that: (3) rules adopted through the compact are same as other state rules; (4) state racing and wagering law continues in full force and effect; (5) participants in the state industry must give prior approval to a non-program fee that is proposed to fund the compact; and (6) the purpose of the compact is to coordinate what state racing commissions do. Active participants on the Steering Committee have included Rick Goodell (Chair), Remi Bellocq, Dan Fick, Vince Gabbert, Jamie Haydon, Peggy Hendershot, Matt Iuliano, Ed Martin, Nick Nicholson, Mike Tanner, Lisa Underwood, and Alex Waldrop.

The New York State Racing and Wagering Board has also drafted a rule-making flow chart, set forth as Appendix B.

Letters and public statements of support for the compact proposal include Rick Masters (CSG), Dan Fick (TJC), Dr. Scott Palmer (AAEP), Edward Martin (RCI), and NYRA. We foresee presentations to the major horsemen's organizations (e.g., NHBPA, THA, TOC, USTA) to help their full memberships to take a formal position. It is believed that no industry participant has a significant, well-informed, objection to the model bill.

## **Operational Goals: Years 1 - 5**

The Compact becomes operational after six states have joined. The immediate goal of the Compact is to obtain adoption by a significant number of racing states in two years. By its very creation the Compact will become a national forum for consensus rulemaking.

### **1: Establish Operations of Interstate Racing and Wagering Compact**

#### **Objective**

States that adopt the model bill will spearhead the efforts of RCI and others to see all racing states join the compact, and develop and test basic operational features on a provisional basis until six states, as needed to form the compact, have passed the enabling legislation.

#### **Strategy**

Initial states can lay the groundwork and build momentum for the compact to operate effectively, once six states adopt the model bill, by building relationships and procedures. Once formed, the compact can immediately establish its basic procedures and relationships with others.

#### **Tactics**

The basic operational steps include each new member state designating a representative to attend meetings to cast its vote for the state racing commission, electing temporary officers, obtaining

temporary assistance from RCI to institute a website, building a contact list of industry participants, forging an interactive relationship with major industry groups, selecting rules or programs that might be addressed with the compact, finalizing staffing and budget concepts, drafting by-laws that will govern public access to books and records and open meetings and rule-making, and assisting other states to enact the model bill.

### **Discussion**

Leading states need to turn the disadvantage of waiting for the sixth state into an advantage used to lay the ground work for the new compact and to assist states to pass the model bill.

### **Metrics**

Organized provisional meetings on a monthly basis, create a file with current designations of a state representative and/or alternate from each member state. Liaisons within six months with major industry groups to educate and establish communications and solicit rule concepts. A compact web site within six months, with posting of proposed rule-making guidelines and other by-laws, meeting schedules, information, and materials. Full implementation of all basic operational steps, including an Industry Rule Review Committee, within one month of when sixth state passes the model bill and compact is formed.

## **2: Adopt Uniform Rules for Safety Equipment**

### **Objective**

Achieve success at building a consensus and educate each participant on its role in the compact by adopting uniform national safety equipment standards for compact member states.

### **Strategy**

Conduct an initial rule making effort on an important and uncontroversial subject with value from uniformity: national safety equipment standards for thoroughbred padded riding crops, helmets, and safety vests; which will educate and familiarize industry participants and member state racing commissions with the compact's advantages and its specific tools and procedures.

### **Tactics**

RCI submits its recent consensus model rules for safety equipment. An acting Rules Coordinator opens a Public Docket on the compact website and prepares a Rule Petition, including identity of affected industry participants and a survey of existing state rules, forwards it to each member state racing commission to conduct its usual industry-staff-members study of a new rule concept, and assigns it to a standing Industry Rules Review Committee and other compact committees for discussions. Industry and regulator representatives meet to reach a consensus, with each participant reviewing proposed substantial modifications with constituents, and report to the industry-regulator Compact Rules Committee which, after a full-member review and provided it appears to have the support of the member state racing commissions, decides to publish the Proposed Rule via the compact and in each member State Registry. All public comments or hearings received by the compact or any state during the public participation period are jointly reviewed by the compact committees and, barring a decision to return to a new Rule Petition to study substantial modifications, a vote is cast by each state to adopt the Proposed Rule. The acting Rules Coordinator prepares a Notice of Rule Adoption, including responses to all public comments, that is published via the compact and in the State Registry of each member state that

voted to adopt the model rule. An identical national safety equipment standard for thoroughbred padded riding crops, helmets, and safety vests is published in the State Code of adopting states.

### **Discussion**

The RCI thoroughbred safety equipment model rules are recently updated based on the advice of the major industry stakeholders. The current labyrinth of isolated state rule making has slowed uniform adoption, however, despite the clear advantage of uniformity for race participants. Creating a uniform Proposed Rule and adopting it in each member state, therefore, is a significant and attainable goal that would favorably introduce the compact process to each participant in the compact.

### **Metrics**

The compact commission appoints a standing Industry Rules Review Committee, RCI proposes compact rule making of its thoroughbred safety equipment model rule(s), the commission appoints an interested advocate from industry or regulators as the acting Rules Coordinator, and the commission appoints a regulator committee of staff from interested state racing commissions at the first meeting of the compact commission. The Rules Coordinator prepares a Public Docket and Rule Petition, which is referred to the Industry Rules Review Committee and Ad Hoc regulator committee, within two weeks. Member state racing commissions conduct the same rule-concept review as for other new rules by three months. The compact committees and member state racing commissions study and draft a report to the Compact Rules Committee by six months. A Proposed Rule is published, joint national review of public comments is completed by ten months, and the Compact Rules Committee meets to discuss and adopt the Proposed Rule in all member states within the year.

## **3: Adopt Uniform Rule to Certify Off-Shore Wagering Sites**

### **Objective**

Compact member states close a major regulatory loophole by adopting a uniform national rule that requires off-shore wagering sites to disclose and license principals and be certified, based on an on-site inspection and report provided to all member states, at the expense of the applicant.

### **Strategy**

Use the ability to act in unison offered by the compact to allow member states to work together on a problem that has not been solved because of state competition and a need for unified action.

### **Tactics**

RCI submits its recent consensus SPMO model rule. An acting Rules Coordinator is appointed and opens a Public Docket on the compact website and prepares a Rule Petition. The usual rule-making procedures are followed, including referrals to compact committees including the standing Industry Rules Review Committee, full review within each state, consensus building by compact committees, and action by the Compact Rules Committee, together with coordination with any major handle jurisdictions that are not compact members. A basic rule to attain the key objectives is universally adopted within a year.

## **Discussion**

The states need the ability to work together on the same rule at the same time to overcome a regulatory necessity that cannot be handled by a single state. The process builds on recent RCI model rule efforts but includes a full industry and regulator review in each state, joint industry-regulator compact committee reviews, and action to adopt an identical rule at the same time.

## **Metrics**

The compact committees begin active consideration of a uniform rule, for simultaneous adoption by member and non-member racing jurisdictions, within three months of the formation of the compact commission. A uniform model rule is published as a Proposed Rule by one year, and adopted by member and non-member racing jurisdictions within 18 months.

## **4: Adopt National Stable Name/Ownership Entity Process**

### **Objective**

Replace current patchwork system of state requirements and application forms that horse owners must navigate to register and/or license a stable name or multiple-owners entity (partnership, LLC) with a single process to complete at a state licensing office or through a national license.

### **Strategy**

Use the compact's ability to work on the same issue at the same time to engage all states in the task of establishing a uniform process for horse owners who compete in more than one state.

### **Tactics**

The existing national licensing compact submits its compilation of state rules and procedures and its universal (for compact licensees) SN/OE application form. An acting Rules Coordinator is appointed and opens a Public Docket on the compact website and prepares a Rule Petition. The usual rule-making procedures are followed, with special focus on the rationale for various state differences and participation by racing commission licensing departments, syndication office managers, and national licensing compact staff. Full review in each state, consensus building by compact committees, and action by the Compact Rules Committee together with coordination with any major handle jurisdictions that are not compact members to create a uniform application form and procedure and national licensing through the compact. A workable consensus rule and program that meets regulatory objectives, while offering simplicity and uniformity for owners, is universally adopted within a year.

## **Discussion**

The states need a forum that is sufficiently efficient to justify spending time and effort to change what works well within each state into a single system that works better for industry participants. Few regulators have considered a national rule or procedure, despite the obvious advantage of uniformity for race participants. Creating a uniform Proposed Rule and adopting it in each member state is a significant and attainable goal that will reduce a burden on horse owners.

## **Metrics**

The compact committees begin active consideration of a uniform rule and program, for adoption simultaneously by member and non-member racing jurisdictions, within three months of the formation of the compact commission. A uniform model rule and program (including a

universal application form, standardized procedures, and availability of national licensing) is published as a Proposed Rule by nine months, and adopted (at least as an accepted alternative to routine state process) by member and non-member racing jurisdictions within a year.

## **5: Develop a Consensus Approach to Non-Controversial Matters**

### **Objective**

Identify and adopt consensus rules that are universally supported by industry and regulators.

### **Strategy**

Use the compact, a forum for everyone to participate and for simultaneous state action, to make rule updates and improvements that have unanimous support.

### **Tactics**

After the compact is well-known, request leading national organizations and others to suggest rules that likely have no opposition. Appoint a Consensus Rules Coordinator and joint regulator-industry committee to draft consensus Proposed Rules. Directly notify all affected persons (including compact committees and each state's industry-staff-members) to seek specifically the unanimous consent of affected persons, with emphasis on confirming that all received notice and provided their responses. Upon confirmation of proper notice and unanimous support, the Compact Rules Committee may meet and propose the rule. If a public comment results in an ongoing objection to the Proposed Rule, the rule concept is recycled for standard procedures; if not, the Compact Rules Committee meets and each state may vote to adopt.

### **Discussion**

The compact can make rules in a collaborative process with industry and regulators that achieves quick and uniform results when there is unanimous support for a proposed rule. It is crucial to confirm that a rule has unanimous support by giving notice to every affected party and using safeguards that ensure there is unanimous support.

Possible examples are to update generally accepted standards written by other organizations (safety equipment, lab accreditation) and adopting uniform language for common rules.

### **Metrics**

The compact commission appoints a Consensus Rules Coordinator and joint regulator-industry committee to draft consensus Proposed Rules and, within six months, announces the start of its Consensus Approach to Non-Controversial Rulemaking. The compact commission within three more months solicits suggested consensus rules from all interested persons and conducts a review of its contact list at an industry-regulator Compact Rules Committee meeting to ensure the list is comprehensive. Proper notice is given and confirmed by compact commission staff and all responses are reviewed by the joint regulator-industry committee by the end of the year. Non-member states are encouraged to participate. This system to propose and adopt consensus rules, against which no affected person raises an ongoing (cannot be satisfied with information) objection, continues to produce uniform consensus rules within 12 months or less.

## **6: Initiate Major Projects with Industry Leaders**

### **Objective**

Take meaningful action on major subjects that challenge the future of racing and wagering.

### **Strategy**

Establish the compact as a forum to which major industry stakeholders and others make reports and recommendations and initiate major projects with industry leaders.

### **Tactics**

Contact all major industry stakeholder groups to engage their attention and interest in using the compact as a central forum to initiate regulatory action. Have a compact representative at their meetings, schedule conferences and speakers, and identify and promote specific subject areas that warrant a major collaborative effort.

### **Discussion**

The compact offers major industry groups a central body, by which regulators are capable of taking organized and effective action, where they can present proposals and information. The dedication of industry participants to improve racing is repeatedly shown in committees, task forces, and medication studies. The compact can reach out to them and become their forum of choice to present ideas, while gaining their invaluable input and guidance. Possible topics are:

- Implement National Penalty Guidelines based upon (like federal sentencing guidelines) empirical research of nationwide penalties for each offense, some policy adjustments to penalty ranges, and specific mandatory mitigating and aggravating factors.
- Standardize the language of state rules.
- National Rule Books written by industry -- e.g. a National Rule Book for Standardbred Racing (by the USTA), Uniform Wager Calculation Rules (written by racetracks) -- that compact states can adopt by incorporation.
- A national approach to disability insurance or retired racehorses.

### **Metrics**

The compact commission has a representative, whether from industry or regulators, who is well-informed and participates (non-voting) in major industry stakeholder events and meetings within six months of compact formation. Task Forces are formed and working on major projects within one year of the formation of the compact. Major industry groups routinely go to the compact for joint study and action on major initiatives within two years.

## **7: Adopt Common Licensing System / Implement National License**

### **Objective**

Consolidate and streamline state licensing programs.

## **Strategy**

Adopt a single entry point for all state licensing, common licensing criteria and forms for routine applicants for an occupational license, consolidate state licensing databases (including penalty reports), and merge the existing licensing compact program into the new compact.

## **Tactics**

Launch a comprehensive study of a national program, including state rule changes, that involves all interested and affected industry and regulatory organizations as members of a compact committee including but not be limited to the licensing compact, the RCI Licensing Committee, NHBPA, THA, TOC, and USTA. Work to identify jurisdiction-specific cost savings to be achieved through centralization of the licensing function. Promote savings to commissions and simplicity to industry participants. Develop a uniform license term as may be necessary.

## **Discussion**

In tight budgets, commissions can no longer afford the redundancy that exists from state to state in the licensing function. Centralization of data management can immediately ease a pressure on commission budgets and the adoption of uniform review policies to ensure that common standards are met can eliminate the need for redundant reviews when an applicant applies to race in additional states. Using common review standards, compact members can rely on the review done elsewhere and save the money it would cost to replicate that review. Using a central storage database of licensing information, individual commissions with a need to examine the details of that review could do so. Participants in racing would benefit by a broadening of the national license to include more categories and universal acceptance of its forms and decisions.

## **Metrics**

Success will be measured by the full participation of compact member jurisdictions in a central licensing database and acceptance of the uniform license approval standards and determination of licensure by fellow Compact members.

## **Conclusion**

The purpose of this compact is to achieve uniformity and institutionalize consensus-based policies that can be implemented efficiently and consistently by state regulators.

Issues that are so controversial that an industry-regulator consensus is not realistic are not envisioned to be addressed by this compact, other than to encourage consensus building discussions within or outside the compact.

The compact creates an opportunity for the racing industry and its regulators to put in place a structure that can achieve cost savings through more efficient consolidated operations, a pooling of commission resources in others, and potential economies of scale in procurements.

Using existing commission resources already committed to RCI, commission rule promulgation efforts, or existing regulatory functions the compact does not envision the need for additional revenues necessary from the industry beyond those already paid within the various jurisdictions. The compact does, however, create an opportunity for regulators and the industry within a

jurisdiction to shift certain functions and payments to the compact as a way to ensure that industry fees currently paid are not diverted for non-racing purposes. This possibility can be pursued by each member state according to its own circumstances, and the compact provides a streamlined way to combine purchases and services as state administrations become increasingly aggressive in seeking new revenues to support government debt service.

Racing industry support of and participation in this compact, once established, is envisioned to come from existing industry resources currently expended for the various industry entities representing different sectors. This reorganizes how current investments feed into policy formation, adoption, and implementation. It is an extension and formalization of the existing RCI Model Rules process, which has been successful in achieving consensus and setting standards, but has not resulted in uniform adoption. The compact is the mechanism to complete this task.

Additionally the compact is a mechanism for states to pool existing resources in order to save money, lessening the possibility that state administrations may seek new fees from the industry to support the status quo of regulation.

The compact creates a central regulatory rule making authority, something that has never existed in racing in the United States. It avoids the possibility of a federal regulatory authority to operate on top of the existing state regulatory structure at great expense to the industry. It ensures that once a consensus is reached on a rule or policy and is adopted it actually is implemented.

It is important to understand that this does not grant regulators any powers that they do not already have, nor does it diminish in any way the ability of any segment of the racing industry to impact the public policy to be deployed in their jurisdictions. It does, however, create a path to uniformity and consistency in regulation, something the racing industry has needed for decades.

This is not a perfect solution, but it is a vast improvement upon the status quo. To succeed it will require the support and active involvement of all sectors of the racing industry regardless of breed – tracks, horsemen, breeders, owners, veterinarians, and their association representatives as well as the regulatory community. Without the involvement of all of the above, this effort will not meet the needs of the industry.

Racing commission and industry consensus can create an opportunity to convince state policy makers to enact the Model Compact Legislation. This is an opportunity that must not be missed.

## APPENDIX A

### National lobbying effort since 2008:

1. New York State Racing & Wagering Board introduced initial bill and sought adherents through Steering Committee and direct interaction with fellow racing commissions: Tucson 2008, RCI endorses concept (July 2009), RCI endorses model bill (Tucson 2009); visits to states (MD, PA).
2. Steering Committee has broadened support and written a model bill (since September 2009).
3. Close collaboration with The Council of State Governments for legal and legislative expertise.
4. NYSRWB contact with key organizations, including early discussions and meetings with Dan Fick (TJC) and Alex Waldrop (NTRA); TJC Thoroughbred Safety Committee (June and August 2009); NYRA endorsement of NYSRWB bill (July 2009); NHBPA (executive board meeting October 2009, working group teleconferences (in 2010); THA [frequent correspondence with Alan Foreman, Gallagher briefing (January 2010), Violette meetings (March, June 2010), Masters-Foreman teleconference (June 2010)]; USTA annual meeting (March 2010), possible teleconferences.
5. RCI includes compact proposal in its strategic plan (March 2010), assists interested states.

### Forward Strategy:

Successful passage will require motivated support in each state from the racing commission and primary lobbying industry organizations (e.g., NHBPA, THA, TOC, USTA), legal support, marketing/endorsements.

### Forward Tactics:

1. Maintain web site ([www.racinglicense.com](http://www.racinglicense.com)) to provide basic information and publicity
2. Speak with racing commissions in each state to form state-by-state strategy:
  - a. "How To" details for each state: identify a key contact(s)
  - b. Initiate attorney reviews in each state
  - c. Teleconferences or visits to key states
  - d. Meet targets for 2011 legislative programs
3. Target resources for passage in major regions or racing jurisdictions.
4. Continue to receive and resolve drafting suggestions (preserve a model bill)
5. Create a marketing package to include as many endorsements as possible
6. Sustain momentum by attending national/regional/important organization meetings:
  - a. July 22: NHBPA annual meeting (Minneapolis) to endorse model bill
  - b. August 10: THA regional meeting (Saratoga) to endorse model bill
  - c. Others TBD
7. Create momentum with passage in some states
8. Coordinate legislative program and actions of supporters in each state

These tactics will meet Legislative time tables, keep the states and the major industry lobbyists motivated, and defuse potential sources of opposition (e.g., local horsemen, racetracks).

## APPENDIX B

### Rulemaking Flow Chart

Rule Concept Proposed by Anyone

e.g., State Racing Commissions ↔ Industry Participants ↔ Compact Committees



COMPACT AGENDA

*(Rules Coordinator & Public Petition: Text, Effect, Positions, Existing Rules)*



PUBLIC DOCKET, AGENDAS, and MEETINGS



STUDY BY COMPACT COMMITTEES (incl. INDUSTRY'S)

and EACH STATE RACING COMMISSION (STAFF & INDUSTRY REVIEW)



BUILD CONSENSUS → OR STOP



INDUSTRY-REGULATOR RULES COMMITTEE



SUBSTANTIVE MODIFICATIONS → REPEAT ABOVE STEPS



BUILD CONSENSUS → OR STOP



VOTE BY STATES TO "PROPOSE" RULE (= PUBLIC-COMMENT PERIOD)



PUBLISHED IN STATE REGISTRIES and COMPACT WEB SITE



COMMITTEES and RACING COMMISSIONS REVIEW COMMENTS, HEARINGS



SUBSTANTIVE MODIFICATIONS → REPEAT ABOVE STEPS



RETAIN CONSENSUS → OR STOP



INDUSTRY-REGULATOR RULES COMMITTEE



FOR STATES THAT VOTE NO → STOP



FOR STATES THAT VOTE YES → NEW STATE RULE



PUBLISH IN STATE REGISTRY AND CODE

Enforced Like Other State Rules