



**PRESS RELEASE from the
LIBERTY JUSTICE CENTER**

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**Racehorse owners and trainers file lawsuit to stop unprecedented,
federal authority given to private group to regulate the industry
*U.S. Congress created a private organization with federal authority to make laws,
issue subpoenas and collect money***

LUBBOCK, Texas (March 15, 2021) — Organizations representing Thoroughbred horse owners and trainers have filed a federal lawsuit to stop a new law in which Congress punted on its legislative duties and, instead, handed the power to regulate horse racing over to a private group. Under the law, this elite group within the industry is allowed to monopolize power and change not only the rules, but the federal laws that govern horse racing across the country.

In the Dec. 2020 COVID-19 stimulus plan, the U.S. Congress tucked in this pet project pushed by elite horseracing interest groups. With the passage of the Horseracing Integrity and Safety Act (HISA), Congress ends 125 years of state regulation and nationalizes control over horse racing by creating and ceding federal lawmaking power to a private, nongovernmental body called the Horseracing Integrity and Safety Authority, or the “Authority.”

The National Horsemen’s Benevolent and Protective Association (National HBPA) and state affiliates in Arizona, Arkansas, Indiana, Illinois, Louisiana, Nebraska, Oklahoma, Oregon, Pennsylvania, Washington and West Virginia, are suing the newly created “Authority” and the Federal Trade Commissioners, who are tasked with nothing more than rubberstamping their rules. In addition, they are suing the Nominating Committee and asking the court to immediately stop them from appointing the Board members of the Authority. They are represented by attorneys at the Liberty Justice Center, a national public interest law firm that defends constitutional rights.

“All Americans should be concerned when Congress gives power to regulate an entire industry to a private group of industry insiders,” **said Brian Kelsey, senior attorney at the Liberty Justice Center.** “This goes way beyond setting rules for the sport of horse racing. This is not the NBA or the NFL. The ‘Authority’ has the power to make laws, issue subpoenas and effectively tax owners with little real oversight. Placing that power in a private organization is illegal and must be stopped.”

The National Horsemen’s Benevolent and Protective Association and its affiliates effectively held back the passage of HISA since it was first introduced in 2015. Opponents on Capitol Hill repeatedly pointed out that HISA illegally delegated power to a private entity. Despite the pushback, the measure was covertly added to the Dec. 21, 2020, COVID-19 stimulus. Now, moneyed horseracing competitors have *carte blanche* from the federal government to control an industry that also serves as the primary livelihood for many HBPA members and an economic driver in many states such as Kentucky, Louisiana and Pennsylvania.

“There’s a real concern among Thoroughbred horse owners that this could put us out of business,” **said Bill Walmsley, president of the Arkansas HBPA.** “By passing HISA, Congress picked winners and

losers and put well-connected owners in charge of horse racing across the country. There was no serious debate or discussion about the costs, let alone the legality of creating a private group to control horse racing.”

The lawsuit, *National Horsemen’s Benevolent and Protective Association v. Black*, was filed on March 15, 2021, in the U.S. District Court for the Northern District of Texas. To read the lawsuit and information about this case, visit: <https://libertyjusticecenter.org/media/horse-racing/>

Background

The Horseracing Integrity and Safety Act (HISA) was first introduced by U.S. Reps. Paul Tonko (D-N.Y.) and Andy Barr (R-Ky.) in 2015. After no movement on the bill for five years, Sen. Mitch McConnell (R-Ky.) announced his support in Aug. 2020. It was passed by the U.S. House of Representatives the next month and then passed the U.S. Senate as part of the Federal COVID-19 Relief Bill on Dec. 21, 2020.

HISA creates an unelected, national board, the “Authority” to replace the current state regulatory structure, and it allows the Authority to impose new fees and costs on the industry. The majority of those who will have to pay the fees are working class horsemen and women.

Proponents claimed that HISA would bring uniformity and safety to the sport; however, congressional opponents repeatedly criticized the unprecedented power and unfunded mandate given to the appointed nine-person board of the Authority. A large percentage of horsemen also believe the law is not in the best interest of racehorses’ health and that the power grab by wealthy industry leaders creates more problems than it fixes.

The U.S. Constitution and subsequent foundational U.S. Supreme Court decisions say that Congress cannot delegate its legislative authority. However, HISA unlawfully gives the newly created Authority the right to:

- Draft governmental rules on equine medication and safety;
- Assess millions of dollars in fees on horse owners and trainers to finance the operations of the Authority;
- Assess civil penalties, civil sanctions, and rule violations, including levying fines and ordering suspensions of owners and trainers for alleged violations of Authority rules; and
- Issue subpoenas and otherwise investigate purported violations and commence civil actions in federal court to enforce Authority rules.

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The Liberty Justice Center is a nonprofit, nonpartisan public-interest litigation center that represents clients at no charge and was founded to fight against political privilege. The most recent example of the Liberty Justice Center’s national success in this arena is its 2018 U.S. Supreme Court victory in *Janus v. AFSCME*. Beyond its work in the *Janus* case, the Liberty Justice Center’s team of talented, liberty-minded attorneys also fight to protect economic liberty, private property rights, free speech, school choice and other fundamental rights. The Liberty Justice Center pursues its goals through strategic, precedent-setting litigation to revitalize constitutional restraints on government power and protections for individual rights. Learn more about the Liberty Justice Center at LibertyJusticeCenter.org.