

AMERICAN CONTINENTAL GROUP

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American Continental Group (ACG)

Mission-driven advocacy firm that delivers the full complement of services required to execute the advancement of public policy and political objectives.

Who we are:

- A bipartisan seasoned team of over 20 former congressional chiefs of staff, congressional committee counsels, administration executives, and other experienced professionals with deep public policy, political, and media expertise.

We focus on:

- Bringing a comprehensive approach to public policy and issue advocacy and delivering effective results that meet our clients' objectives.



ACG's NHBPA Team



Manus Cooney

- Former Chief Counsel and Staff Director of the United States Senate Judiciary Committee, principal legal and policy advisor to the Committee's Chairman, Sen. Orrin G. Hatch (R-UT). Manus founded Cairde Racing Stables LLC and is a partner in Blind Squirrel Racing LLC, both of which have owned and raced thoroughbreds in the Mid-Atlantic region.

Brian Fitzgerald

- Former Majority Staff on the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, under Subcommittee Chairman Birch Bayh (D-IN) and full Committee Chairman Edward Kennedy (D-MA). Brian has 30 years of experience practicing law and lobbying in Washington, D.C. Brian competed on the Virginia Point-to-Point Circuit for many years riding over timber in the owner-rider division with a private stable of steeplechasers that competed on the Mid-Atlantic point-to-point and NSA circuit. He has also served on the Board of Great Meadow, the home of the Virginia Gold Cup. Brian currently owns two thoroughbreds in partnership that run on the flat in the Mid-Atlantic region.

Shawn Smeallie

- Former Special Assistant to President George H.W. Bush for Legislative Affairs and Special Assistant to the Director for Legislative Affairs at the Office of Management and Budget in the Executive Office of the President. Shawn also formerly served as a legislative assistant to Senator Alfonse D'Amato (R-NY). Shawn manages Topnotch Farms, which owns several horses through the West Point Thoroughbreds syndicate. Shawn has represented Churchill Downs and Ladbroke Racing in the past.

Current Policy Issues of Interest to NHBPA

Immigration: H-2B Regulations

Wage Rule

- The Department of Labor's new hourly wage rule for the H-2B program that was scheduled to go into effect on January 1, 2011 has been put on hold until at least September 30, 2012 by the omnibus appropriations spending bill (H.R. 2005) that will keep the federal government running through the end of September 30, 2012. The spending bill includes language that prevents the implementation and enforcement of the wage rule which would have changed the way the prevailing wage is calculated and would have required employers to pay current and future H-2B workers the highest of the prevailing wage, the federal minimum wage, the state minimum wage or local minimum wage. The new formula would have raised rates by as much as 100% in some cases and would have had a serious impact on horseracing.

Temporary Need Interpretation

- The Vermont Service Center of the U.S. Citizenship and Immigration Services (USCIS), which processes the bulk of H-2B petitions in the United States, has been denying H-2B petitions taking the position that the need for the beneficiaries services are not temporary or seasonal, but are permanent.
- In the fourth quarter of last year, six NY horse trainers filed a lawsuit in New York on the USCIS' H-2B temporary need interpretation. The lawsuit was dismissed in December 2011 after an agreement was reached by the trainers and the U.S. Department of Homeland Security that the trainers would be able to file for H-2B Visas in different locations throughout the year if they legally separate their operations that are in different locations. However, senior policy officials at the USCIS have conflicting views on the legitimacy of the advice included in the NY settlement.
- The NHBPA has been working closely with the rest of the industry in order to correct this interpretation by seeking the assistance of a number of senior officials in the USCIS and recently requested a meeting with the Director of USCIS in order to discuss finding a favorable resolution to the issue.



Current Policy Issues of Interest to NHBPA

Ban on Performance Enhancing Drugs in Horseracing:

- Legislation introduced by Rep. Ed Whitfield (R-KY) on May 4th, 2011, the Interstate Horseracing Improvement Act will prohibit one from (1) entering a horse in a race that is subject to an **interstate** off-track wager if the person knows the horse is under the influence of a performance-enhancing drug; or (2) knowingly providing a horse with such a drug if the horse, while under the influence of such drug, will participate in a race that is subject to an **interstate** off-track wager.
 - Performance enhancing drugs are defined in this bill as any substance capable of affecting the performance of a horse at any time by acting on the nervous system, cardiovascular system, respiratory system, digestive system, urinary system, reproductive system, musculoskeletal system, blood system, immune system (other than licensed vaccines against infectious agents), or endocrine system of the horse.
- On May 6th, 2011, the legislation was referred to the House Commerce Committee's Subcommittee on Commerce, Manufacturing, and Trade. There has been no subsequent action on the legislation.
- A companion bill to Rep. Whitfield's Interstate Horseracing Improvement Act of 2011 was introduced in the Senate by Senator Tom Udall (D-NM) on May 4th, 2011.
- Senator Udall's bill was referred to the Senate Committee on Commerce, Science, and Transportation on May 4th, 2011. There has been no subsequent action on the legislation.



Current Policy Issues of Interest to NHBPA

Protection of the Interstate Horseracing Act of 1978 Rights and Privileges

Clarification of Federal Wire Act, 18 U.S.C. § 1084 (2006)

- Legislation introduced by Rep. Christopher Gibson (R-NY) on July 29th, 2011, H.R. 2702, the Wire Clarification Act of 2011, would amend the federal criminal code to provide that criminal penalties under such code and other provisions of federal law for transmitting bets and wages on sporting events or contests shall not apply to any bet or wager that is permissible under the Interstate Horseracing Act of 1978.
- On August 25th, 2011, the legislation was referred to the House Subcommittee on Crime, Terrorism, and Homeland Security. There has been no subsequent action on the legislation.

Internet Gaming

- Legislation introduced by Rep. Joe Barton (R-TX) on June 24th, 2011, H.R. 2366, the Internet Gambling Prohibition, Poker Consumer Protection, and Strengthening UIGEA Act of 2011, would establish the Office of Internet Poker Oversight in the Department of Commerce.
 - Hearings regarding the issue of internet gambling have been held in the U.S. Senate Committee on Indian Affairs and in the House Committee on Energy and Commerce. There has been no subsequent action regarding this legislation.
- Legislation introduced by Rep. John Campbell (R-CA) on March 17, 2011, H.R. 1174, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act, would grant the Secretary of the Treasury regulatory and enforcement jurisdiction over the Internet Gambling Licensing Program. The legislation would prescribe administrative and licensing requirements for Internet betting, including background check requirements and suitability standards for license applicants.



Current Policy Issues of Interest to NHBPA

Department of Justice Opinion on Federal Wire Act




- The Department of Justice (DOJ) on December 23, 2011 publicly released a legal opinion that it had privately issued on September 20, 2011 in response to a request by Illinois and New York lottery officials whether proposals by these officials to use the internet and out-of-state transaction processors to sell lottery tickets to in-state adults would violate the Federal Wire Act. DOJ opined that interstate transmissions of wire communications that do not relate to a “sporting event or contest” fall outside of the Wire Act. Because the proposed New York and Illinois lottery proposals do not involve wagering on sporting events or contests, the Wire Act does not prohibit them.
- Even though DOJ’s new interpretation of the Wire Act does not affirmatively amend existing law to legalize online gambling, DOJ’s new interpretation effectively means that the current Administration will not take action to prosecute certain forms of online gambling. Therefore, the decision could have wide-ranging effects throughout the online gaming industry, clearing the way for states to legalize online poker and other forms of online gaming.
- DOJ’s opinion could lead to a patchwork approach by the states with the potential of different states providing games with different legal and regulatory standards and tax rates. In response, lobbying forces in support of online gaming will use this decision in an attempt to speed up legislation for a regulatory framework at the federal level.

Current Policy Issues of Interest to NHBPA

Federal Tax Issues

Section 179 Expense Allowance and Bonus Depreciation

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- Due to Congress' inaction by year end 2011, two Federal tax benefits, the Section 179 expense allowance and 100 % bonus depreciation, were returned to prior levels on January 1, 2012.
 - The Section 179 expense allowance has returned to \$125,000 for 2012 and is reduced one dollar for each dollar of eligible property purchased during the year that exceeds \$500,000. The allowance applies to horses, farm equipment and most other depreciable property used in a business and permits a horse owner or breeder to write off up to \$125,000 in assets purchased and placed in service in one's horse business in 2012. The expense allowance for 2010-2011 was \$500,000 and phased out after purchases exceeded \$2 million.
 - Bonus depreciation has returned to 50% for 2012. Bonus depreciation allows horse owners and other horse businesses to write off 50% of the cost of "new" capital assets, including horses, when purchased and placed in service in 2012. To be eligible for bonus depreciation the original use of the property must commence with the taxpayer. Any prior use makes the property ineligible. Bonus depreciation was 100% for eligible assets purchased and placed in service from September 8, 2010 through 2011. Bonus depreciation can be used in conjunction with the expense allowance.
 - Congress is currently working on extending the payroll tax cut which could possibly serve as a legislative vehicle to restore these two provisions retroactively to the 2011 higher levels. The House-passed payroll tax cut bill last year extended bonus depreciation through 2012, but the Senate version of the bill did not.

Current Policy Issues of Interest to NHBPA

Federal Tax Issues (cont'd)

Other Tax Priorities

- Elimination of the \$5,000 automatic tax withholding requirement on winning wagers with odds of 300-1 or higher.
- Doubling of the tax reporting requirement from \$600 to \$1,200 on these same wagers.
- Reduction of the capital gains holding period for racehorses from 24 months to 12 months.



Proactive vs. Reactive Approach to Legislative Representation



Proactive vs. Reactive

Our view is that in order to be effective in Washington on public policy matters an organization must be proactive rather than reactive. While not an exhaustive list, being proactive could include undertaking any or all of the following action items:

- Conducting a political audit to determine what relationships currently exist between the NHBPA and Federal policymakers;
- Compiling a list of key industry allies and third parties with whom we have common interests, Members of Congress with whom NHBPA members have a constituent relationship, members of key congressional committees that have jurisdiction over the issues that impact our industry, members of congressional leadership, House and Senate, majority and minority, as well as key Administration officials;
- Monitoring the activities of congressional committees and regulatory agencies that have jurisdiction over our issues, attending congressional and regulatory hearings, meetings and mark-ups of interest, and reviewing new legislation and regulations that may impact us;
- Conducting meetings with key members of Congress, congressional staff, and Administration officials to educate and engage them on our behalf;
- Organizing a NHBPA grassroots program that can be activated when necessary to support our efforts on the ground in Washington;
- Drafting “White Papers”, policy documents, and briefing materials and initiating “studies” in support of our interests and issues;
- Drafting legislation and /or regulations and proposed amendments thereto as necessary and appropriate to advance and protect our interests ; and
- Organizing regular meetings/and or conference calls amongst ourselves and with our key industry allies in order to discuss and coordinate our activities/efforts.

We welcome your input and are excited about having the opportunity to work together in representing the interests of the members of the NHBPA.