

STATEMENT OF JAMES J. HICKEY, JR.  
PRESIDENT  
AMERICAN HORSE COUNCIL

REGARDING THE PREVENT ALL SORING TACTICS ACT, H.R. 1518

UNITED STATES HOUSE OF REPRESENTATIVES  
ENERGY AND COMMERCE COMMITTEE  
SUBCOMMITTEE ON COMMERCE, MANUFACTURING AND TRADE

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The American Horse Council (AHC) appreciates the opportunity to testify concerning the Prevent All Soring Tactics Act of 2013 (H.R. 1518) (PAST Act). The AHC supports this important legislation and believes it has the potential to end the abusive practice of soring in the Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse industries.

The AHC is a Washington-based association that represents the horse industry before Congress and the federal regulatory agencies. The AHC includes over 120 equine organizations representing all horse breeds and virtually every facet of the horse industry, and individual horse owners, breeders, veterinarians, race tracks, horse shows, trainers, rodeos, farriers, breed registries, horsemen's associations, state horse councils and commercial suppliers.

The horse industry, in all its segments of racing, showing, recreation and work horses, involves 9.2 million horses, nearly 2 million horse owners, has a \$102 billion impact on the U.S. economy and supports 1.4 million full-time jobs. It involves agriculture, sport, entertainment, gaming, recreation, and work horses, all built on the breeding, training,

use and enjoyment of horses and horse activities. The horse show industry by itself involves 2.7 million horses, has a \$28.7 billion economic impact and supports 380,416 jobs.

### **Soring and the Horse Protection Act**

In the 1950s, some walking horse owners and trainers who wanted to improve their horses' chances of winning began to sore their horses as a shortcut to longer and more conventional training methods. Soring is an abusive practice used to cause pain in the horse's forelegs and produce an accentuated show gait for competition. It usually involves the use of action devices, chemicals, pads, and wedges, alone or in combination with the application of irritating or blistering chemical agents to a horse's forelegs. The accidental injury of a horse while showing, training or any other activity is not considered soring.

As this practice spread in the 1950s and 1960s, public concern over the practice led Congress to pass the Horse Protection Act (HPA of Act) in 1970. The HPA Prohibits sore horses from participating in shows, sales, exhibitions, or auctions or being transported to or from any of these events and established criminal and civil penalties for violations of the Act.

### Soring Defined

According to the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), the agency that enforces the Act:

“Soring is a cruel and inhumane practice used to accentuate a horse’s gait. Soring may be accomplished by irritating or blistering a horse’s forelegs through the injection or application of chemicals or mechanical devices that cause irritation. Soring may also be accomplished by the infliction of cuts, lacerations, or burns, or by the engagement of any practice that could reasonably be expected to cause a horse to suffer pain or distress while walking, trotting or otherwise moving. An accentuated gait may also be accomplished by using inhumane hoof trimming or pressure-shoeing techniques....When it walks, a sored horse responds by quickly lifting its front legs to relieve pain.” (Italics added.) USDA Program Aid No. 1827, The Horse Protection Act.

Simply stated, the purpose of soring is to intentionally cause a horse to suffer pain in the lower part of its front legs in order to produce a higher gait in the show or sales ring. By making it painful for the horse to put weight on its front legs when moving, the horse lifts them in a quick manner when they strike the ground, reacting with a very accentuated lifting of the foot. This produces an exaggerated gait. The addition of action devices and stacks of pads heightens the effects of other methods of soring or causes soring itself to produce an even more accentuated gait.

USDA Enforcement

The HPA is enforced by USDA. Unfortunately, USDA has lacked the staff and resources to send a USDA inspector to every Tennessee Walking Horse, Racking Horse, or Spotted Saddle Horse show. To bridge the gap, USDA set up a system that allowed the industry to regulate itself.

USDA established a program to license Designated Qualified Persons (DQPs). DQPs are persons familiar with horses who have been trained, licensed and employed by USDA-certified Horse Industry Organizations (HIOs), to check horses for evidence of soring. A DQP must meet the requirements set out in USDA regulations and must be licensed by an HIO certified by USDA. DQPs may be appointed and delegated authority by the management of a horse show or sale to inspect horses to detect those that are sored. By hiring DQPs, show and sale managers may insulate themselves from liability should a sored horse show or be sold at their event. Most managers of shows with Tennessee Walking Horses, Racking Horses, or Spotted Saddle Horses hire DQPs to inspect the horses. Most managers of other shows do not.

DQPs hired by management are responsible for inspecting every Tennessee Walking Horse, Racking Horse and Spotted Saddle Horse before it is shown, exhibited or sold. If they find a soring violation, they must report it to management and management has a legal responsibility to disqualify the sored horse. If USDA, APHIS finds that a DQP is not doing his/her job it may take away his/her license to inspect horses.

Technically, the HPA applies to all horse shows; but because soring is not prevalent in other breeds and segments of the horse industry it has had little impact outside the Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse industries. The trigger for USDA enforcement of the Act is the showing, exhibition, auction or transport of a sore horse. For this reason USDA has focused its efforts on those areas of the show community that involve breeds and activities that are most frequently involved in soring. If a breed, discipline, or activity is not soring its horses to exaggerate their gaits, then as a practical matter the Act has likely not adversely affected them.

### **Continued Prevalence of Soring**

Despite the HPA's forty plus year prohibition on the showing, sale, auction, exhibition, or transport of horses that have been "sored," this practice continues to be a problem in the "big lick" or "performance horse" segments of the Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse industries.

In 2010, the USDA Office of Inspector General (OIG) issued a report on the enforcement of the Horse Protection Act Program. The OIG initiated this audit to evaluate the effectiveness of USDA's enforcement of the HPA. The field work was performed from August 2008 through August 2009. To view the complete OIG audit and USDA's response to the recommendations, please visit: <http://www.usda.gov/oig/webdocs/33601-02-KC.pdf>.

The OIG report found that the soring of horses continues in the big-lick and performance sectors of the horse show industry and noted that "... the environment for enforcing the Horse Protection Act is hostile. Many in the ["big lick"] horse show industry do not regard the abuse of horses as a serious problem, and resent USDA performing inspections. The practice of soring has been ingrained as an acceptable practice in the industry for decades. APHIS records showed that there was an environment at horse shows, sales, and other horse-related events in which APHIS employees were subjected to intimidation and attempts to prevent them from inspecting horses."

The OIG Report also noted that at the 2006 Tennessee Walking Horse National Celebration (Celebration) APHIS disqualified all but three horses in the World Grand Championship class due to HPA violations. Show management cancelled the final class, failing to name a World Grand Champion for the first time in 68 years.

USDA, OIG and others who deal with the HPA and soring cite continued instances of soring today. For example, the OIG Report states that during the 2011 Celebration, all of the swabs taken by USDA to test for the presence of prohibited foreign substances on the feet of horses shown tested positive for soring agents, masking or numbing agents used to prevent detection that the horses had been sored. Recently, AHPIS reported that at the 2012 Celebration of 190 horses sampled, 145 tested positive for foreign agents. The report found that for the entire year, USDA tested 478 horses at 24 shows and found that 309 horses, 65%, were positive for foreign substances.

According to USDA, at the 2013 Celebration USDA and DQPs inspected 1,952 horses and 110 violations were found - an approximate 6% violation rate. At the 2012 Celebration, 1,849 horses were inspected and 166 violations found for a 9% violation rate. At the 2011 Celebration 2,143 horses were inspected and 203 violations were found for a 9.5%. It should be noted the total number of horses inspected included the performance horse classes, as well as other classes of walking horses such as trail, pleasure, and planation that do not have issues with soring. These "non-performance" horses usually do not wear big pads and/or chains.

### **OIG, AAEP, and AVMA Recommendations**

The OIG report found that APHIS' program for inspecting horses for soring was not adequate to ensure that walking horses were not abused; that the budget of less than \$500,000 annually for 40 years was not sufficient; that DQP inspectors used at shows often were involved in the industry, had a conflict of interest, and did not always inspect horses in accordance with the HPA and regulations; that DQPs did not always issue violations to the responsible individual; and that APHIS inspection teams could not ensure that participants who had been suspended for prior HPA violations were not still participating.

The OIG report made several recommendations, including: abolish the current DQP system and establish an inspection process based on independent accredited veterinarians; implement a control to ensure that individuals suspended from horse shows, sales, or exhibitions due to HPA violations do not participate in subsequent event; seek the

necessary funding from Congress to adequately oversee the Horse Protection Program; and revise and enforce regulations to prohibit horses disqualified as sore from competing in all classes at a horse show, exhibition, or other horse-related event.

Additionally, the American Association of Equine Practitioners (AAEP) and the American Veterinarian Medicine Association (AVMA) in 2008 adopted a position supporting a ban on the use of action devices and pads or performance packages on Tennessee Walking Horses. A joint position paper noted that the motion of action devices in conjunction with chemical irritants on the pastern of the horse's leg creates a painful response, resulting in a more exaggerated gait. "Foreign substances are being detected on the pastern area during pre-show inspections at an alarmingly high rate, according to U.S. Department of Agriculture statistics," the organizations said. Banning action devices from use on Tennessee Walking Horses "reduces the motivation to apply a chemical irritant to the pastern."

AAEP and AVMA also stated that performance packages (also called stacks or pads), made of plastic, leather, wood, rubber and combinations of these materials, that are attached below the sole of the horse's natural hoof and have a metal band that runs around the hoof wall to maintain them in place add weight to the horse's foot, causing it to strike with more force and at an abnormal angle to the ground. They also facilitate the concealment of items that apply pressure to the sole of the horse's hoof. Pressure from these hidden items produces pain in the hoof so that the horse lifts its feet faster and higher in an exaggerated gait.

The AVMA/AAEP statement concluded that “because the inhumane practice of soring Tennessee Walking Horses has continued 40 years after passage of the Horse Protection Act, and because the industry has been unable to make substantial progress in eliminating this abusive practice, the AVMA and the AAEP believe a ban on action devices and performance packages is necessary to protect the health and welfare of the horse.”

It should also be noted, the United States Equestrian Federation (USEF), the national governing body for equestrian sport in the United States, prohibits action devices in the show ring for all recognized national breed affiliates.

### **PAST Act**

The PAST Act would amend the HPA to add new prohibitions, penalties, and create a new inspection program. The bill incorporates many of the recommendations of the USDA OIG report and the AAEP and AVMA.

### Findings

The bill would add additional findings to the HPA. These new findings include:

- The Inspector General of the Department of Agriculture has determined that the program through which the Secretary inspects horses is inadequate for preventing soring;
- Historically, Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses have been subjected to soring; and

- Despite regulations in effect related to inspection for purposes of ensuring that horses are not sore, violations of the Act continue to be prevalent in the Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse breeds.

### Prohibited Devices and Activities

The PAST act would amend the HPA to prohibit a Tennessee Walking Horse, a Racking Horse, or a Spotted Saddle Horse from being shown, exhibited, or auctioned with an “action device,” or “a weighted shoe, pad, wedge, hoof band or other device or material” if it is constructed to artificially alter the gait of the horse and is not strictly protective or therapeutic. These new prohibitions would not apply to other breeds that have no history of soring. These new prohibitions would not apply to other breed and would not ban the use of therapeutic pads, or bell boots or quarter boots that are used as protective devices.

The bill defines an “action device” as “any boot, collar, chain, roller, or other device that encircles or is placed upon the lower leg of a horse in such a manner that it can rotate around or slide up and down the leg, so as to cause friction, or strike the hoof, coronet band, fetlock joint, or pastern of the horse.” Action device is not defined in the law now, although the HPA regulations presently in force include a definition that is almost identical to this proposed statutory definition. The new definition excludes “soft rubber or soft leather bell boots or quarter boots that are used as protective devices.” Other breeds may continue to use action devices or pads while showing, subject to the current overriding requirement that any devices not actually sore the horse.

Currently, the HPA only prohibits showing, transporting or sale of sore horses at auction, not the actual soring itself. The bill would add soring itself and the “direction” of someone to sore a horse to prohibited activities. It would also make it a violation, subject to the maximum penalties, to knowingly disobey an order of disqualification.

### Penalties

The legislation would increase the maximum fines and penalties for violations from \$3,000 to \$5,000 and the maximum prison sentence from one year to three years. Individuals with three or more violations could receive a lifetime ban or “disqualification” from participating in horse shows, exhibitions, or auctions.

For individuals subject to a disqualification, the bill would expand the type of prohibited activities beyond showing, exhibiting, judging or managing horse shows. Additional prohibited activities would include transporting or arranging transport of a horse to or from a horse show, exhibition or auction and being present in a warm up area, inspection area or any area of a horse show, exhibition or auction not open to the general public.

Additionally, any horse found to be sore could be suspended from competing for 180 days for the first offense, one year for the second, and three years for the third.

### New Inspector Licensing Process

The bill would create a new licensing process for horse show inspectors, eliminating the current DQP program, which the USDA OIG Report considered ineffective. The bill

would require the USDA to train, license and appoint new independent inspectors for shows and other HPA-regulated activities that wish to hire an inspector. Licensed or accredited veterinarians would be given preference for these positions. The decision to hire and pay for an inspector would still reside with the management of a show, sale or auction. It would not be made mandatory. Shows or sales that employ DQPs now would begin using USDA-selected inspectors. Shows or sales that choose not to use DQPs now would not be required to use them should the bill pass.

### **AHC and Horse Industry Support of the PAST Act**

The AHC supports the PAST Act for several reasons. Foremost, because we believe the PAST Act will end the soring of Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses. The AHC has always opposed soring and supports strong the enforcement of the HPA. There is no question that soring is an abusive practice that should not be tolerated or allowed to continue unabated.

The horse industry is very concerned about the welfare of the horses on which our entire industry relies. Various efforts have been made since enactment of the HPA forty-three years ago to stop the soring of horses, and they have not accomplished the purpose of the 1970 Act – to end soring. Improvements to the HPA are clearly needed and justified. Because the PAST Act incorporates most of the recommendations made by the USDA OIG, AAEP and AVMA we believe it will strengthen the HPA and ensure Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses are not abused.

The bill is narrowly focused on the problem it is intended to solve and does not adversely affect or unnecessarily burden other segments of the horse show industry that are not soring horses and have no history of soring horses. The bill will not expand USDA authority with respect to other breeds and disciplines. The HPA only regulates horse shows, exhibits, or auctions and is focused on those involving horses that have been sored and the PAST act would not change that.

It would keep the focus of the HPA on the soring of horses, a practice that has been outlawed for over 40 years. The PAST Act simply re-focuses the current law even more on those sectors of the show industry that have been soring horses, the Tennessee Walking Horse, Racking Horse and Spotted Saddle Horse industries.

The continued prevalence of soring in the Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse industry negatively impacts the entire horse industry. The horse industry is very diverse with many different breeds and disciplines. The general public and people outside the industry do not necessarily understand the difference between the “big lick” walking horses and other breeds and disciplines in the horse industry that involve animated gaits. Even though soring is limited to a small subset of the horse industry, those instances of abuse negatively impact perceptions of all segments of the industry.

Soring is damaging the Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse industries. On May 27, 2013, Tracy Boyd then President of the Tennessee

Walking Horse Breeders and Exhibitors Association (TWHBEA) issued a statement explaining his vote to endorse the PAST Act. In that statement he said “Our membership numbers are directly affected by the controversy.” He related that in the late 90s and early 2000s, TWHBEA had 20,000 members, a \$5 million dollar budget and 25 or 30 employees and was the second fastest growing breed in America. He went on to state that TWHBEA now has only 8,300 members and fewer than 10 part-time employees. “TWHBEA has lost members in droves, and the brutal emails I have received tell me why. It is our reputation. It is soring. It is our image,” said Boyd. If the soring issue is not addressed, all segments of the Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse industry will continue to be negatively impacted.

The AHC did not take the decision to support the PAST Act lightly. Any legislation that impacts any segment of the horse industry in any way is carefully scrutinized by the relevant AHC committees. In this instance the AHC Animal Welfare Committee and Horse Show Committee began to examine the soring bill introduced by Congressman Whitfield in 2012 and assembled a task force to address the bill. The task force was composed of representatives from several AHC member show organizations, including the American Association of Equine Practitioners, the U.S. Equestrian Federation, the American Quarter Horse Association, the American Paint Horse Association, the Tennessee Walking Horse Owners and Breeders Association, the American Morgan Horse Association, the Arabian Horse Association, the American Saddlebred Horse Association and the United Professional Horsemen’s Association.

The taskforce identified several potential changes to the bill that would improve its effectiveness and limit its impact on other segments of the horse industry. Congressman Whitfield incorporated many of these suggestions into the PAST Act when it was introduced in 2013 and the task force, as well as, the AHC Animal Welfare and Horse Show Committees, recommended the AHC support the bill.

### **Conclusion**

The AHC supports this important legislation and believes it has the potential to finally end the abusive practice of soring in the Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse industry. The PAST Act has wide support in the horse industry and is endorsed by most major national horse show organizations, including, the American Association of Equine Practitioners, U.S. Equestrian Federation, the American Quarter Horse Association, the American Paint Horse Association, the American Morgan Horse Association, the Pinto Horse Association of America, the Arabian Horse Association, the American Saddlebred Horse Association, the United Professional Horsemen's Association, the Appaloosa Horse Club and many other state and local organizations.

This bill is focused on the problem it is intended to solve and does not adversely affect other segments of the show industry. It is important that this bill be passed to protect the welfare of Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses and protect the economic health of the Walking Horse industry and the entire horse industry.

The AHC appreciates this opportunity to submit testimony to the subcommittee and would be happy to provide any additional information on the PAST Act or the horse industry the subcommittee might need.