



The Committee on Energy and Commerce

Memorandum

November 8, 2013

To: Members of the Subcommittee on Commerce, Manufacturing, and Trade

From: Majority Committee Staff

Re: Legislative Hearing on H.R. 1518

I. Summary

On Wednesday, November 13, 2013, in room 2322 of the Rayburn House Office Building at 10:00 a.m., the Subcommittee on Commerce, Manufacturing, and Trade will convene a hearing on H.R. 1518, a bill to amend the Horse Protection Act to designate additional unlawful acts under the Act, strengthen penalties for violations of the Act, improve Department of Agriculture enforcement of the Act, and for other purposes. Witnesses are by invitation only.

II. Witnesses

Dr. John Bennett, DVM, Equine Services, LLC, *on behalf of* Performance Show Horse Association;

Dr. W. Ron DeHaven, DVM, MBA, Executive Vice President & CEO American Veterinary Medical Association, Former Administrator USDA Animal and Plant Health Inspection Service;

James J. Hickey, Jr., President, American Horse Council;

Marty Irby, International Director and Former President, Tennessee Walking Horse Breeders' & Exhibitors' Association;

Honorable Julius Johnson, Commissioner, Tennessee Department of Agriculture;

Teresa Bippen, President, Friends of Sound Horses; and

Donna Benefield, International Walking Horse Association.

III. Background

The Tennessee Walking Horse is a breed of show horse which traces its roots to the Bluegrass region of Tennessee as early as 1885.¹ Ranging in weight from 900-1200 pounds, the Tennessee Walking Horse is known for its three distinctive gaits: the flat foot walk, running walk, and canter.² The running walk is the natural gait unique to this breed.³ This breed competes in horse shows in two different divisions: flat-shod (pleasure) and performance. In the pleasure division, horses are judged for show presence combined with performing their natural gait.⁴ Horses in the performance division are judged for executing the traditional gaits in a more animated and accentuated fashion, which typically consists of lifting the foreleg high off the ground with each step.

Several newspaper articles and exposés by groups such as the Humane Society of the United States have detailed abusive practices purportedly used by trainers in order to cultivate a higher and longer gait in the show ring.⁵ These practices include “soring,” which may consist of irritating or blistering a horse’s forelegs through the application of chemicals, cutting the horse’s hoof painfully short, or using mechanical devices to inflict pain every time a horse steps down. The resulting pain causes the horse to raise its foreleg immediately and in a higher fashion than it would naturally. Opponents of these tactics, such as the American Veterinary Medical Association (AVMA) and American Association of Equine Practitioners (AAEP), claim the practice of soring has long-term physical and mental effects on the horses, and that due to deficiencies in Federal oversight, the practice is still commonly employed by owners of this breed.⁶

Legislative History

Congress passed the Horse Protection Act (HPA) in 1970, which defines soring and prohibits the showing, sale, auction, exhibition, or transport of sored horses.⁷ The HPA authorized the Secretary of Agriculture to inspect any horse that is transported, shown, or exhibited within the United States and to assess civil penalties for noncompliance with the Act.

Congress amended the HPA in 1976 to increase the fines and criminal penalties available and authorize the Secretary to prescribe requirements to be followed by the management of any horse show in appointing individuals to conduct inspections for the purposes of the HPA.⁸ In

¹ <http://imh.org/index.php/exhibits/online/horse-breeds-of-the-world/north-america/item/2201-tennessee-walking-horse>

² *Id.*

³ <http://www.twhbea.com/breed/gaits.php>

⁴ <http://www.twhbea.com/cms/cmsfiles/PDFs/BasicBrochure.pdf>

⁵ <http://www.tennessean.com/article/20130823/NEWS01/308230111/Tennessee-Walking-Horse-National-Celebration-opens-united-front-against-soring>

http://www.humanesociety.org/issues/tenn_walking_horses/

⁶ AVMA/AAEP press release Apr. 12, 2013

⁷ P.L. 91-540 (Dec. 9, 1970)

⁸ P.L. 94-360 (July 13, 1976)

1979, the Secretary promulgated regulations creating the Designated Qualified Person (DQP) program.⁹

In order to qualify as a DQP, individuals must be accredited Doctors of Veterinary Medicine who are also members of the American Association of Equine Practitioners, large animal practitioners with substantial equine experience, or otherwise knowledgeable in the area of equine lameness due to soring practices; or trainers, farriers, or other knowledgeable horsemen who have been licensed as a DQP by a horse industry organization (HIO) whose DQP training program is certified by the USDA.¹⁰ The USDA does not directly license individuals as DQPs; DQPs are licensed through USDA-certified programs maintained by HIOs or associations. A list of certified DQP programs and licensed DQPs is published in the *Federal Register* annually.

Regulations published in accordance with the 1976 amendments explicitly state that any horse owner, exhibitor, or trainer having custody or responsibility for any horse at a horse show, exhibition, sale, or auction shall allow any representative of the USDA Animal and Plant Health Inspection Service (APHIS) to inspect such horse at any time and place the APHIS representative designates.¹¹ According to APHIS, their veterinarians are only able to attend roughly 10 percent of the horse events which are affiliated with the certified HIOs.

Report of the Office of the Inspector General

In September of 2010, the USDA Office of the Inspector General (IG) published a report on the administration of the HPA. The report concluded that APHIS' program for inspecting horses for soring is "not adequate to ensure that these animals are not being abused."¹² The IG found that often DQPs do not inspect horses in a manner that effectively enforces the law due to potential conflicts of interest, nor do they always issue tickets for violations of the HPA.¹³ Additionally, the report identified APHIS' constrained budget as a reason for the agency's inability to conduct thorough oversight. The IG report recommendations included abolishing the DQP program, replacing it with APHIS-trained and -employed veterinarian inspectors, and underwriting the new inspection program by charging show managers for the cost of the inspections.

H.R. 1518, the Prevent All Soring Tactics (PAST) Act

Congressman Ed Whitfield and five original cosponsors, including Congresswoman Jan Schakowsky, introduced H.R. 1518, the Prevent All Soring Tactics Act, on April 11, 2013. The legislation was referred to the Subcommittee on Commerce, Manufacturing, and Trade. As of October 31, 2013, this legislation had 216 cosponsors. H.R. 1518 would amend the Horse

⁹ See Horse Protection Regulations, 9 C.F.R. part 11.

¹⁰ 9 C.F.R. §§ 11.1, 11.7.

¹¹ *Id.* § 4

¹² USDA OIG Report- Audit Report 33601-2-KC Sept. 2010

¹³ From 2005 to 2008, the Office of the Inspector General found that while APHIS employees were present at only 6 percent of all shows they issued 51 percent of all violations. P. 6

Protection Act to add definitions, increase civil and criminal penalties, and alter the scheme for licensing and designation of inspectors.

Specifically, the bill would:

- Amend the findings to conclude that violations of the current program continue to be prevalent.
- Expand the list of activities from which the Secretary may ban a violator from participating to include transporting or arranging for transport of a horse to a show, exhibition, or auction; giving instructions to an exhibitor; being present in a warm-up, inspection, or other area where spectators are not permitted.
- Ban the use of an action device or a weighted shoe, pad, wedge, hoof band, or other device that is intended to artificially alter the gait of a horse and is not strictly protective or therapeutic.
- Prohibit a person from causing or directing a horse to become sore for the purpose of any horse show, exhibition, sale, or auction or allowing any such activity respecting a horse which is sore by the owner of such horse.
- Direct the Secretary to disqualify a horse from competition for a minimum of 180 days for a first determination of soring, a minimum of 1 year for a second determination, and a minimum of 3 years for a third determination.
- Increase the maximum penalties for violations of the soring provisions from \$3,000 and/or 1 year to \$5,000 and/or 3 years for violations of the act. Adds penalties for failure to enforce a disqualification order and for failure to pay an inspector for his or her services
- Authorize the Secretary to permanently ban an individual after third or subsequent violations from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction, or otherwise participating in, including financing the participation of other individuals in, any horse show, horse exhibition, or horse sale or auction.
- Require the Secretary to publish on the Animal and Plant Health Inspection Service's website information on violations of such Act.
- Direct the Secretary to promulgate within 180 days rules under which the Department of Agriculture will license, train, assign, and oversee inspectors. Creates a statutory preference for licensed or accredited veterinarians and prohibits the licensure of an individual with conflicts of interest as defined by rule. Grants the Secretary the ability to revoke an inspector's license.

Please contact Brian McCullough, Gib Mullan, or Shannon Taylor of the Committee staff at (202) 225-2927 with questions.