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4 H.R. 1518. A BILL TO AMEND THE HORSE PROTECTION ACT

5 WEDNESDAY, NOVEMBER 13, 2013

6 House of Representatives,

7 Subcommittee on Commerce

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The subcommittee met, pursuant to call, at 10:08 a.m.,
11 in Room 2322 of the Rayburn House Office Building, Hon. Lee
12 Terry [Chairman of the Subcommittee] presiding.

13 Present: Representatives Terry, Lance, Blackburn,
14 Guthrie, Kinzinger, Bilirakis, Johnson, Schakowsky, Yarmuth,
15 Matheson, Barrow, and Whitfield.

16 Staff present: Charlotte Baker, Press Secretary; Kirby

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17 Howard, Legislative Clerk; Nick Magallanes, Policy
18 Coordinator, Commerce, Manufacturing, and Trade; Brian
19 McCullough, Senior Professional Staff Member, Commerce,
20 Manufacturing and Trade; Gib Mullan, Chief Counsel, Commerce,
21 Manufacturing and Trade; Heidi Stirrup, Health Policy
22 Coordinator; and Shannon Weinberg Taylor, Counsel, Commerce,
23 Manufacturing and Trade.

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|
24 Mr. {Terry.} I think we have all of our technical
25 difficulties fixed as well, so Ms. Schakowsky, are we ready?

26 Ms. {Schakowsky.} I am ready.

27 Mr. {Terry.} All right. First of all, I just want to
28 thank all of our witnesses for being here today on Mr.
29 Whitfield's bill.

30 So welcome to today's hearing of the CMT Subcommittee,
31 and I am pleased to welcome our witnesses and my good friend,
32 Mr. Whitfield, the chairman of Energy and Power Subcommittee,
33 and sponsor of this legislation that we are going to discuss
34 today.

35 Throughout my life, I have admired horses. I remember
36 fondly riding horses at my grandpa's place in Colorado. I
37 also put myself through 2 years of college and law school
38 working at Ak-Sar-Ben Racetrack and have quite an affinity
39 for the Thoroughbreds.

40 Now, Congressman Whitfield's legislation, the Prevent
41 All Soring Tactics Act, amends various parts of the Horse
42 Protection Act of 1970 and 1976. H.R. 1518 bans the use of
43 all action devices, weighted shoes, pads, hoof bands and

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44 other devices which alter the horse's gait. This legislation
45 would also change the current self-governing framework, where
46 Horse Industry Organizations train and appoint inspectors for
47 shows and exhibitions with some oversight by the Animal and
48 Plant Health Inspection Service, an agency of the Department
49 of Agriculture. Now, H.R. 1518 would direct the Secretary of
50 Agriculture to promote new regulations under which USDA would
51 take over the licensing, training, assigning and overseeing
52 of these inspectors.

53 I look forward today to an exchange of ideas reflecting
54 multiple viewpoints on this legislation. No law is ever
55 perfect, and often, Congress needs to act in order to
56 modernize, clarify or reduce burdens. I have no doubt that
57 there are issues within the HPA that need to be addressed.
58 However, I believe that when Congress is considering
59 legislation that adds new layers of regulation to an
60 industry, we must be precise and careful. This means
61 narrowly tailoring this legislation to fit the specific
62 problem that needs to be addressed.

63 I want to thank everyone again for being here and
64 traveling. I know several of you have come a long ways. We

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65 have a government official from Tennessee, Commissioner
66 Julius Johnson, Tennessee's Commissioner of Agriculture,
67 here, and pursuant to our traditional protocols, government
68 officials get to testify first, and what we will do is, we
69 will go from your right, my left, down the panel and we will
70 discuss those rules when we get there.

71 [The prepared statement of Mr. Terry follows:]

72 ***** COMMITTEE INSERT *****

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|
73 Mr. {Terry.} Since the vice chairman isn't here, does
74 anyone other than Ed and Marsha want 2 minutes? Seeing none,
75 I yield back my time and now yield your 5 minutes to our
76 ranking member, Jan Schakowsky.

77 Ms. {Schakowsky.} Thank you very much, Mr. Chairman. I
78 appreciate this hearing, and I want to welcome all the
79 witnesses for considering of H.R. 1518 sponsored by my good
80 friend, Ed Whitfield, the PAST Act, Prevent All Soring
81 Tactics. I am a previous horse owner. In addition to
82 learning how to ride and jump a little--wasn't very good at
83 it; my horse was better at it than I was--I learned how to
84 keep him healthy and sound.

85 We are dealing today with Tennessee Walking Horses, who
86 have been known historically for their distinctive gait but
87 evidence continues to emerge that too often these wonderful
88 horses are trained through inhumane and really tortuous
89 treatment, especially for high-stakes competitions. We are
90 going to see a video, a very disturbing video, after I
91 finish. It is short, 2 minutes and some 50 seconds. But
92 what we will see are tactics that absolutely need to be

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93 stopped. The Horse Protection Act in 1970 was designed to
94 eradicate the practice of soring. You will see this, the
95 soring of the feet of the horses. Unfortunately, the Horse
96 Protection Act enforcement is lax and the industry's self-
97 policing has been largely ineffective in eliminating the
98 practice. And so this legislation makes sense. In fact, as
99 of today, it is cosponsored by 223 Members, well over a
100 majority in the House of Representatives. We need to make
101 sure that we really are protecting horses. That is what the
102 PAST bill does, and I hope this video will make it very
103 clear. This is ABC Nightline, a very short clip of it, if
104 you could play that, please, as part of my testimony?

105 [Video playback]

106 And I yield back.

107 [The prepared statement of Ms. Schakowsky follows:]

108 ***** COMMITTEE INSERT *****

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|
109 Mr. {Terry.} Thank you. At this time I will yield
110 2-1/2 minutes to the gentlelady from Tennessee.

111 Mrs. {Blackburn.} Thank you, Mr. Chairman, and I want
112 to welcome Commissioner Johnson and appreciate him being
113 here.

114 I think that we all agree that the soring of horses in
115 any form is objectionable on every level, and for good
116 reason. Soring is illegal, and you are going to hear from
117 Commissioner Johnson. The State of Tennessee has zero
118 tolerance for those who knowingly commit violations and have
119 worked diligently with industry leaders to curb the
120 practices. In fact, according to the most recent data from
121 USDA, the compliance rate for shows this year has been over
122 96 percent with less than 4 percent of the nearly 10,000
123 inspections resulted in some sort of sore violation.
124 Accordingly, the USDA, this is their compliance rate. For
125 the Horse Industry Organization-affiliated Tennessee Walking
126 Horses shows it was 98-1/2 percent over the period 2009 to
127 2012.

128 So why is additional legislation necessary for an

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129 industry that is over 98 percent compliant? Now, let us
130 compare this to the Thoroughbred racing industry, which is in
131 our neighboring State of Kentucky in which one report found
132 that 3,000 horses died between 2009 and 2011. During the
133 same period, one horse participating in a Tennessee Walking
134 Horse show event died. Based on conversations I have had
135 with breeders in Tennessee, enacting the bill before us would
136 potentially eliminate an entire division of horse breed and
137 result in the loss of thousands of jobs in Tennessee,
138 Kentucky, Missouri, Texas, North Carolina, Virginia, Texas
139 and Mississippi. They are all connected with the industry.
140 The economic impact of the Walking Horse industry in
141 Tennessee is \$1.5 billion. The Celebration Show in
142 Shelbyville, Tennessee, brings in over \$40 million to that
143 community. This legislation imposes excessive regulatory
144 burdens on the Walking Horse industry and could potentially
145 eliminate the entire industry and thus the entire breed.

146 With that, I yield to the gentleman from Kentucky, Mr.
147 Whitfield.

148 [The prepared statement of Mrs. Blackburn follows:]

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149 ***** COMMITTEE INSERT *****

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|
150 Mr. {Terry.} The gentleman is recognized for 2-1/2
151 minutes.

152 Mr. {Whitfield.} Well, I thank the gentlelady very much
153 for yielding, and I appreciate Chairman Terry and Ms.
154 Schakowsky having this hearing today.

155 As has been said, the Horse Protection Act was passed by
156 Congress in 1970 to stop the practice of soring. The only
157 breeds being sored today are the Tennessee Walking Horses,
158 the Spotted Saddle and Racking. The U.S. Department of
159 Agriculture Inspector General report issued a few years ago
160 has concluded that the current program for inspecting for
161 soring is not adequate to ensure that these animals are not
162 being abused. The DQPs being hired by the HIOs have a clear
163 conflict of interest and do not properly enforce the Horse
164 Protection Act.

165 Many in the horse show industry do not regard the abuse
166 of horses as a problem, and when USDA inspectors conduct
167 their few inspections, they are subjected to intimidation and
168 harassment and must routinely bring law enforcement for
169 protection. USDA has recommended that the DQP program be

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170 abolished and independent, accredited veterinarians perform
171 inspections at sanctioned shows.

172 H.R. 1518 adopts that recommendation and makes it more
173 difficult to sore and use devices to alter the horse's
174 natural gait. This bill has widespread support including 4
175 horse organizations including the American Horse Council. It
176 has all 50 State veterinary medical associations, the
177 American Association of Equine Practitioners, and 223 Members
178 of Congress are cosponsors.

179 We are going to hear testimony today about the show
180 entity in the Shelbyville, Tennessee, area being 98.5 percent
181 compliant. We are also going to hear other witnesses
182 disagree with that, and we are going to tell you why they
183 disagree with it.

184 I feel bad that we would not have this problem today in
185 the industry except for a few areas around Shelbyville,
186 Tennessee, a few areas in Missouri, and yes, a few areas in
187 Kentucky, and that is why later on we are going to find out
188 why the inspector organizations in Tennessee and in Missouri
189 and in Kentucky have been notified by the Department of
190 Agriculture that they are going to be decertified. They are

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191 not there yet, but I look forward to the hearing and the
192 information that we will learn from it. Thank you.

193 [The prepared statement of Mr. Whitfield follows:]

194 ***** COMMITTEE INSERT *****

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|
195 Mr. {Terry.} Thank you, Mr. Whitfield, and now it is
196 time for the show, which is hearing from our witnesses on
197 H.R. 1518, and I am going to introduce the witnesses now, and
198 then when I am finished with that, we will start with Mr.
199 Johnson. Each of you will have 5 minutes. There is a
200 little--well, I see one in front of Ms. Benefield and one
201 behind us. Green means you are good to go. When it starts
202 to get yellow, or when it is yellow, that means start
203 wrapping it up, and red, I am going to probably interject and
204 have you wrap up at that point.

205 So we have a really fantastic panel with us today. We
206 have the Hon. Julius Johnson, Commissioner of the Tennessee
207 Department of Agriculture, then Marty Irby, International
208 Director and former President, Tennessee Walking Horse
209 Breeders and Exhibitors Association. We have Mr. Ron
210 DeHaven, DVM, Executive Vice President and CEO of American
211 Veterinary Medical Association, former Administrator, USDA
212 Animal and Plant Health Inspection Service. Thank you for
213 being here. Mr. John Bennett, DVM, Equine Services, LLC, on
214 behalf of the Performance Show Horse Association; Donna

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215 Benefield, International Walking Horse Association, then
216 Teresa Bippen, President, Friends of Sound Horses, and last
217 to testify, James Hickey, Jr., President, American Horse
218 Council.

219 So at this time I want to recognize the Hon. Julius
220 Johnson for your 5 minutes.

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|
221 ^STATEMENTS OF HON. JULIUS JOHNSON, COMMISSIONER, TENNESSEE
222 DEPARTMENT OF AGRICULTURE; MARTY IRBY, INTERNATIONAL DIRECTOR
223 AND FORMER PRESIDENT, TENNESSEE WALKING HORSE BREEDERS AND
224 EXHIBITORS ASSOCIATION; W. RON DEHAVEN, DVM, MBA, EXECUTIVE
225 VICE PRESIDENT AND CEO, AMERICAN VETERINARY MEDICAL
226 ASSOCIATION, AND FORMER ADMINISTRATOR, USDA ANIMAL AND PLANT
227 HEALTH INSPECTION SERVICE; JOHN BENNETT, DVM, EQUINE SERVICES
228 LLC, ON BEHALF OF PERFORMANCE SHOW HORSES ASSOCIATION; DONNA
229 BENEFIELD, VICE PRESIDENT, INTERNATIONAL WALKING HORSE
230 ASSOCIATION; TERESA BIPPEY, PRESIDENT, FRIENDS OF SOUND
231 HORSES; AND JAMES J. HICKEY, JR., PRESIDENT, AMERICAN HORSE
232 COUNCIL

|
233 ^STATEMENT OF JULIUS JOHNSON

234 } Mr. {Johnson.} Thank you, Chairman Terry, Ranking
235 Member Schakowsky and members of the subcommittee. I
236 appreciate this opportunity. I am going to stick to my
237 statement and be very brief at the same time.
238 As Commissioner of the Tennessee Department of

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239 Agriculture, I appreciate you allowing me to provide
240 testimony on the importance of the equine industry and
241 especially the Tennessee Walking Horse industry to our State.
242 The equine industry is an important part of Tennessee's
243 economy and its heritage. We are ranked among the top six
244 States in the Nation in number of equine, according to the
245 latest census of agriculture. Our Market Development
246 Division within the Department helps to support this growing
247 industry through promotion of Tennessee trails, shows and
248 events and through the involvement with numerous breed
249 associations. Tennessee is home to several national breed
250 associations in addition to the Tennessee Walking Horse.

251 Some facts about Tennessee's equine industry are a 2010
252 survey indicated 170,000 head but a more comprehensive survey
253 in 2004 indicated 240,000 head in Tennessee. We believe the
254 numbers have not declined but rather the variation is more
255 due to the tactics of which the survey was taken. There are
256 41,000 Tennessee farms with horses, 41,000. There are 3.2
257 million acres, 30 percent of Tennessee's farmland, designated
258 to equine uses. So you can see this industry as a whole is
259 very important to our State agricultural industry.

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260 The total economic impact from the equine industry in
261 Tennessee is \$1.4 billion. The total value added impact of
262 equine in Tennessee is \$746 million. The indirect business
263 tax revenue received by state and local government is \$61.2
264 million, and the total estimated economic impact from the
265 horse shows and events is \$45 million. The importance of the
266 industry to the many local and rural community charities,
267 which they organize these activities, and other organizations
268 is tremendously significant. It is going to be a major hit
269 to rural Tennessee.

270 The industry creates 20,309 jobs throughout our State,
271 and again especially in rural Tennessee, which is so hard
272 pressed to attract any jobs, and it is more meaningful there
273 than any other place, and we simply will be devastated with
274 the loss of this kind of jobs.

275 The Tennessee Department of Agriculture and I personally
276 find the soring of horses in any shape, form or fashion
277 objectionable on every level. There should be no tolerance
278 for animal cruelty. Walking horse industry leaders have made
279 what we believe are monumental strides at eliminating this
280 practice from the industry, and we believe they are committed

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281 to a policy of zero tolerance for individuals who commit
282 violations. We understand the motives of some to further
283 tighten the regulation of the industry in order to protect
284 the horse. However, we caution against overreaction by some
285 who seek to eliminate horse shows at the expense of rural
286 communities across the State and horse owners, the vast
287 majority of whom are caring and responsible in the management
288 of their animals.

289 Rural Tennessee would suffer the greatest as a result of
290 this type of legislation. We urge this committee and
291 Congress to find the right balance that protects the horse as
292 well as ensures the viability of the walking horse industry
293 should you find it necessary to pass any legislation at all.

294 The Tennessee Walking Horse is a wonderful, dynamic
295 breed that has been the enjoyment of many around the world
296 for its ride, its gentleness and its endurance. We believe
297 Congressman Whitfield's proposed legislation is based more on
298 perception than on sound science. We believe it is excessive
299 and will damage the industry significantly and potentially
300 eliminate the performance horse altogether. I urge you to
301 find sensible solutions to this issue.

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302 Thank you for your time.

303 [The prepared statement of Mr. Johnson follows:]

304 ***** INSERT 1 *****

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|

305 Mr. {Terry.} Thank you.

306 At this time, Mr. Irby, you are recognized for your 5

307 minutes.

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|
308 ^STATEMENT OF MARTY IRBY

309 } Mr. {Irby.} Thank you, Mr. Chairman. Thank you, Ms.
310 Schakowsky, and other members. My name is Marty Irby and I
311 served as the President of the Tennessee Walking Horse
312 Breeders and Exhibitors Association from December of 2010
313 until December of 2012 and currently serve as an
314 International Director. But today I am here representing
315 myself. In addition, last night I was informed that I have
316 been selected as the nominated President for 2014 of the
317 Association. I have owned Racking Horse World Grand
318 Champions and have judged the Spotted Saddle Horse World
319 Grand Championship. All three of these breeds are affected
320 by this legislation that I fully support.

321 In 1955, my grandfather veterinarian obtained his first
322 Tennessee Walking Horse and joined the association I later
323 became President of. At the age of 3, I was first placed on
324 a Tennessee Walking Horse, and at the age of 5, I first began
325 competing in World Grand Championship competitions. Since
326 childhood, I have observed the horrific practice of soring,

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327 and my father taught me how to sore a horse at the age of 13.
328 Soring padded performance horses is ingrained within our
329 culture. From my personal and public stance, I have suffered
330 many losses. Even family members have turned against me. I
331 ask that you not let these efforts be in vain. I am here to
332 prevent the extinction of the Tennessee Walking Horse, and I
333 believe this bill must pass the House of Representatives and
334 Senate.

335 I have seen horses' feet in the past on many occasions
336 look like pizza with the cheese pulled off the top of it.
337 That is how horrific this practice is. I have listened to
338 thousands of people--breeders, trainers, exhibitors and
339 owners--who want change within our industry. Poll after
340 political continues to show that the majority favor this
341 bill. During my 8 years of service in various positions, I
342 tried to move forward and move our breed in a new direction
343 from within and was unsuccessful with my attempts.
344 Therefore, I am here before you today to ask Congress to
345 please help save our breed.

346 Other breeds may be doing well in Tennessee and their
347 numbers may be good but the Tennessee Walking Horse is not

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348 doing well. Over the past 10 years, our membership has
349 declined from more than 20,000 to 8,300 or less. In 2006,
350 when I was an International Director, we failed to crown a
351 World Grand Champion because most of the horses were
352 disqualified and deemed sore and in violation of the Horse
353 Protection Act by the United States Department of
354 Agriculture. In 2010, when I served as Vice President of
355 Marketing, we were kicked out of the World Equestrian Games
356 in Kentucky, and our \$25,000 sponsorship check was returned
357 due to the soring issues and utilization of stacks and
358 chains.

359 Our greatest fault for many decades as a breed is that
360 we have been trying to save the padded performance horse.
361 Recently I discussed this with a friend, and I said we tried
362 and tried to save the performance horse and now it is about
363 saving the breed. He said, well, shouldn't that have been
364 what it was about all along? That spoke volumes to me.

365 At this point in time and as I have progressed, I have
366 realized that we must let go of the sore padded performance
367 horse and step soundly into the future or we will not realize
368 any future at all.

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369 In May of 2012, I as President faced with perhaps
370 the most critical decision that has ever faced our breed:
371 should I continue to perpetuate the lie that padded and
372 chained horses are mostly sound--

373 Mr. {Terry.} Will you pull the microphone a little
374 closer? I just heard that they can't hear you in the control
375 room.

376 Mr. {Irby.} Should I continue to perpetuate the lie
377 that padded and chained performance Tennessee Walking Horses
378 are mostly sound and only a few bad apples sore them, or
379 should I recognize the truth, that most all of them have been
380 sore or are sore. This question came into mind after the
381 ABC exposé Nightline that you saw earlier. I was President
382 that day and happened to be in Wemding, Germany, judging a
383 horse show and saw the world's reaction from the outside of
384 this horrific practice. I knew that day that things must
385 change, and the brutal beating and soring and electric
386 prodding of horses like people like Jackie McConnell have
387 done need to stop. I have known Jackie McConnell since I was
388 5 years old and my family was friends with him.

389 This event became the Tylenol crisis of the Tennessee

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390 Walking Horse breed and the negative stigma associated with
391 our breed due to soring has caused the value of yearling
392 colts to drop from \$20,000 or more to many just to \$300 to
393 \$500 in a few years. Our breed records reflect that last
394 year we bred a small fraction of the number of mares we bred
395 8 years ago. Our lack of ability to self-regulate over the
396 past 43 years has brought our breed to this crossroads. I
397 have observed more corruption in soring horses, corrupt
398 inspections, corrupt judging, corrupt training methods,
399 corrupt business practices intertwined with this industry
400 than I have seen anywhere on this earth, and this has nearly
401 destroyed our great breed.

402 It is now time someone took action to save our breed and
403 make our economy grow again. An economy based on criminal
404 activity is not healthy for our industry and not healthy for
405 our country. For this to happen, the mechanically created
406 and artificial gait known as the Big Lick must cease to exist
407 along with pads, action devices and soring so that this dark
408 cloud can be removed from our breed. In addition, the HIO
409 inspection system should be eliminated so that the self-
410 regulation can go away and things can be done in the right

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411 manner.

412 I thank you, Mr. Chairman, and appreciate the time to be

413 here today and testify before you.

414 [The prepared statement of Mr. Irby follows:]

415 ***** INSERT 2 *****

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|

416 Mr. {Terry.} Thank you.

417 Dr. DeHaven, you are recognized for your 5 minutes.

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418 ^STATEMENT OF W. RON DEHAVEN

419 } Dr. {DeHaven.} Thank you, Chairman Terry, Ranking
420 Member Schakowsky and members of the subcommittee. I am here
421 today both as a veterinarian and also as a representative of
422 the American Veterinary Medical Association. Mr. Chairman,
423 while I will be giving an abbreviated statement, I request
424 that my full written testimony be included in the hearing
425 record.

426 Mr. {Terry.} So ordered.

427 Dr. {DeHaven.} The AVMA is the recognized voice of our
428 Nation's veterinarians, representing more than 84,000
429 members, or roughly 80 percent of all veterinarians in the
430 United States. My testimony today, though, also represents
431 the joint efforts between AVMA and the American Association
432 of Equine Practitioners. Together we are committed to
433 upholding the health and welfare of our Nation's horses.

434 I want to thank you for the opportunity to speak today
435 as I believe I have a very unique perspective, having been
436 engaged in this issue since very early in my career. Prior

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437 to the AVMA, I was the Administrator with the U.S. Department
438 of Agriculture's Animal and Plant Health Inspection Service
439 and had national responsibility for enforcement of the Horse
440 Protection Act. But even before that, my first role with the
441 USDA was as a field veterinary medical officer, where I
442 gained 6 years of boots-on-the-ground experience enforcing
443 the Horse Protection Act and working at horse shows. I know
444 the walking horse industry and its problems from the ground
445 up.

446 I want to thank Congressman Whitfield for his leadership
447 in introducing and championing H.R. 1518, the Prevent All
448 Soring Act, or PAST Act. I believe it represents a unique
449 opportunity to once and for all end the cruel and inhumane
450 practice of soring our Nation's walking horses. I have
451 witnessed the long-lasting and damaging effects that soring
452 has on horses and feel that this bill is necessary in order
453 to stop this culture of abuse that has existed for more than
454 40 years in the walking horse industry.

455 All of us know what soring is and that it is an
456 unethical and inhumane practice, and it involves deliberately
457 inflicting pain to exaggerate the leg motion of some gaited

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458 horses but especially Tennessee Walking Horses, Spotted
459 Saddle Horses and Racking Horses. Not only is it inhumane
460 but it is also unethical, giving an advantage to those
461 trainers who use the practice to achieve this unnatural gait
462 known as the Big Lick.

463 Horses can be sores with chemicals, which are typically
464 caustic liquids applied to the horse's lower leg, making that
465 leg sensitive to the touch. Action devices, which are
466 bracelet-like chains or rollers, are then placed on the legs
467 and then strike that area of the pastern, exacerbating the
468 pain that has already been sores. Although there is little
469 reason to use these chains in the show ring unless a horse
470 has been sores, the current law still permits their use.

471 Horses can also be sores using physical methods,
472 resulting in pain when the horse's hoof strikes the ground.
473 A few examples of this include improperly trimming the hoof
474 to expose sensitive tissues, placing foreign objects such as
475 metal bolts between the shoe pads and the sole of the foot,
476 or improper shoeing techniques. Performance packages or the
477 so-called stacks and pads are often nailed to the horse's
478 natural hoof and secured by a metal band that runs across the

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479 hoof wall. That adds weight to the horse's leg, causing the
480 hoof to strike with more force and also at an abnormal angle.
481 These pads can also be used to conceal foreign objects that
482 apply painful pressure to the sole of the horse's foot.

483 Soring is detected through visual and manual inspections
484 and through the use of various types of technology. Even so,
485 unethical trainers and owners have developed creative ways to
486 avoid detection. These include but are not limited to the
487 use of numbing agents on the horse's legs to mask the pain
488 during the inspection. The use of harsh or even painful
489 training methods called stewarding that teaches the horse if
490 they flinch or otherwise show evidence of pain during
491 inspection, that they will be subject to even more severe
492 abuse.

493 Looking back, Congress recognized the importance of
494 stopping this egregious practice when they passed the Horse
495 Protection Act with the goal of ending this practice.
496 Unfortunately, the law did not go far enough. Many factors
497 including unethical trainers and owners who continue to sore,
498 show judges who reward this bad behavior, and insufficient
499 funding as well as strong political influences, all of these

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500 have contributed to a culture of corruption within the
501 walking horse industry, and that is what allows soring to
502 continue today. Many trainers and owners feel in fact that
503 they must sore if they are going to be competitive.

504 One of the major drawbacks of the current enforcement
505 program is reliance on the walking horse industry to police
506 itself. This is the proverbial fox watching the henhouse.
507 Industry inspectors commonly have inherent conflicts of
508 interest and therefore it can be to their advantage to let a
509 sore horse into the show ring. Indeed, a 2008 white paper by
510 the American Association of Equine Practitioners as well as
511 the 2010 USDA OIG report confirm this assertion, and both of
512 those reports called for the ending of this self-policing
513 practice. The data submitted with my written testimony shows
514 violation rates vary from year to year, but I want to draw
515 your attention to several points. First, violation rates are
516 never zero. Second, oversight by USDA veterinarians shows
517 that inspectors are much more likely to find violations when
518 in fact they have oversight.

519 This legislation is endorsed by more than 100
520 organizations including every veterinary medical association

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521 at the State level and the United States. Thus, it means
522 that every member of this subcommittee has constituents who
523 are veterinarians that want this bill passed.

524 Mr. Chairman, thank you, and thank you to the committee
525 for this opportunity to testify on behalf of the American
526 Veterinary Medical Association.

527 [The prepared statement of Dr. DeHaven follows:]

528 ***** INSERT 3 *****

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|

529 Mr. {Terry.} Thank you.

530 Dr. Bennett, you are now recognized for your 5 minutes.

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|

531 ^STATEMENT OF JOHN BENNETT

532 } Dr. {Bennett.} Thank you. Chairman Terry, Ranking
533 Member Schakowsky and members of the committee, I thank you
534 for the opportunity to be here and discuss H.R. 1518 and
535 impact it would have on the walking horse industry.

536 I have been a licensed veterinarian for 33 years, and
537 currently I am licensed in the States of Kentucky, Tennessee,
538 Mississippi, Alabama and Florida. I am a member of the AVMA,
539 the AAEP, Kentucky Veterinary Medical Association, the
540 Tennessee Veterinary Medical Association, the Florida
541 Association of Equine Petitioners, Tennessee Walking Horse
542 Breeders and Exhibitors Association, and also a member of
543 TCVM, which is Traditional Chinese Veterinary Medicine, which
544 correlates to I do acupuncture. I have also been a
545 veterinarian for the Humane Society of the United States to
546 look after the horses that were confiscated from the Jackie
547 McConnell stables in West Tennessee. I have also been a
548 veterinarian for the Humane Society of the United States for
549 horses confiscated in East Tennessee from the Larry Wheeling

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550 stables. I have also worked for the USDA and their annual
551 training programs to train the inspectors, the DQPs, that
552 inspect the horses. I have taught classes at those courses.
553 I go through all that merely to say that I am the one person
554 on this panel that every day is out there where the rubber
555 meets the road. My practice is located in Shelbyville,
556 Tennessee. Up to 60 percent of it is made up of Tennessee
557 Walking Horses. The rest are Western Performance Horses,
558 American Saddlebreds, Hunter Jumpers, occasional mule and
559 miniature, I guess to keep me humble.

560 One thing that I would bring out after we saw the video,
561 nobody in this room should put up with animal cruelty of
562 whatever breed at all. But make no mistake, the Horse
563 Protection Act as it is written today and as it is being
564 proposed today would have no jurisdiction over either one of
565 those cases. The industry, as Mr. Whitfield says, has data
566 that says we are 98 percent compliant. The USDA data says we
567 are 96.6 percent compliant. The reason I am here today is, I
568 feel like that the industry is moving forward.

569 On the other hand, I get asked if you are opposed to
570 H.R. 1518, then you are for soring horses. That is

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571 absolutely not the case. There is not a person on this panel
572 or in this room that doesn't view soring as a cancer on this
573 industry. As a medical professional, I prefer to cut it out
574 with a scalpel blade. H.R. 1518 wants to use a chainsaw.

575 I was lucky enough in the fall of 2012 to meet in
576 southern Kentucky with Congressman Whitfield to discuss the
577 same issues that we have today, and I too wonder after
578 40-some years and in the past year since we met, why are we
579 still having these problems? And I would submit to you,
580 ladies and gentlemen, in my opinion, I think the technology
581 has caught up with horse training. Now I think it is time
582 for the Horse Protection Act to catch up to the technology.

583 I would invite each and every one of you at any time,
584 you don't have to call ahead, come down and ride with me, see
585 what I see. You have got an open invitation.

586 And with that said, I do want to thank you for the
587 opportunity to be here, and I will do my very best to answer
588 any questions you have. Thank you.

589 [The prepared statement of Dr. Bennett follows:]

590 ***** INSERT 4 *****

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|

591 Mr. {Terry.} Thank you, Dr. Bennett.

592 Ms. Benefield, you are now recognized for 5 minutes.

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|
593 ^STATEMENT OF DONNA BENEFIELD

594 } Ms. {Benefield.} I would like to thank Chairman Terry
595 and Ranking Member Schakowsky and distinguished members of
596 the subcommittee for giving me the opportunity to testify
597 here today.

598 Mr. Chairman, I would like to request that my written
599 testimony and exhibits be admitted into the official record.

600 Mr. {Terry.} All members, your statements will be
601 entered into the record.

602 Ms. {Benefield.} My name is Donna Benefield, and I am
603 the Vice President of the International Walking Horse
604 Association. I have been involved in the administration of
605 four USDA-certified inspection programs over the past 25
606 years. I have inspected thousands of horses for compliance
607 with the Horse Protection Act and its regulations. I have
608 been in hundreds of meetings here in Washington, D.C., with
609 the USDA and the Tennessee Walking Horse Industry to achieve
610 reform in the industry and compliance with the federal law.

611 When Congress passed the Act in 1970, their intent was

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612 to eradicate soring, not regulate it, as is being done under
613 the current horse protection regulations. On April 27, 1979,
614 the Federal Register published the following: ``If the horse
615 industry makes no effort to establish a workable self-
616 regulatory program for the elimination of sore horses or if
617 such a program is established but does not succeed in
618 eliminating the sore horse problem within a reasonable length
619 of time, the Department will give serious consideration to
620 the prohibition of all action devices and pads.''

621 This industry has had over 40 years to rid itself of
622 this abuse, and for numerous reasons has not only resisted,
623 but has refused reform at every turn. They have maintained,
624 controlled and regulated soring through fear and intimidation
625 for decades. Back in the 1980s, there were headlines on the
626 front page of the Nashville Tennessean newspaper regarding
627 death threats on me. The FBI became involved, and arranged
628 protection for my husband and me for many years. In the
629 1990s, we had a horse killed. Years later another horse was
630 poisoned at a horse show.

631 Due to the time constraints, I am going to share with
632 you only a few things that are done to these horses to

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633 enhance their gait and to avoid detection of a violation of
634 the Horse Protection Act. What they do to sore a horse:
635 caustic chemicals are applied to the pasterns--ankles, the
636 cannon bone, or the shin of the horse, then wrap the legs in
637 plastic for 24 to 48 hours. They are tied to the wall. They
638 put duct tape around the wraps to prevent the horse from
639 chewing the wraps off their burning legs, due to the intense
640 pain. They will use an electric grinder to sand the soles of
641 the feet down to the quick until beads of blood come to the
642 surface before applying the shoe. They will insert foreign
643 objects between the soles of the horse's feet and stacks.
644 They will pressure shoe a horse by standing the horse on
645 steel bolts or wooden blocks. They will sand a strip of the
646 hoof wall down to the quick, apply a band across the top of
647 the area and tighten it down with a screwdriver to create
648 pressure on the sensitive hoof wall or to create additional
649 pressure to the sole of the pressure-shod horse.

650 I have seen the bands sheared off the hoof near the top
651 of the hoof many times, leaving the horse standing on a
652 bloody nub in a pool of blood in the show ring. At a recent
653 seminar, one of the industry vets instructed attendees what

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654 supplies to have in their grooming kit so that they were
655 prepared when this happens.

656 The reason why these things are not detected during
657 inspection, they steward the horses. Stewarding is when a
658 person will do a mock inspection of the horse's pasterns
659 while another person will hold the horse. When the horse
660 reacts to the pain, the person will hit the horse in the head
661 with a two by four, an ax handle or a baseball bat, among
662 other things, until he stops reacting to the pain. I have
663 seen this many times. He then has been taught not to react
664 during the inspection at the horse show, as seen on the ABC
665 Nightline show with Jackie McConnell that you just saw. They
666 use numbing agents applied topically or injected by the
667 trainer or a sympathetic industry vet to block the pain at
668 shows. They will allow alligator clips to the scrotum, anus,
669 vulva, tongue, tail or the teats of the horse to create a
670 painful distraction during the inspection. They put zip ties
671 or piano wire on the gums of the horse and pull it very
672 tight, creating pain to take their mind off of the pain on
673 their feet. They use glue-on hair, tattooing, sprays,
674 graphite among other things to hide the illegal scars. They

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675 put bit burrs under the saddle girth and cinch the girth up
676 tight to create pain to distract the horse. Salicylic acid
677 is used to remove scars. They slather a paste of salicylic
678 acid and alcohol, Cut-Heal or DMSO or whatever onto the
679 pastern, wrap them in plastic for 24 to 48 hours to cook.
680 The horse will typically lie in a stall, breaking out in a
681 sweat, moaning with pain and resist getting to his feet.
682 They then have to go into the stall and beat the horse to his
683 feet, as was seen in the ABC Nightline Jackie McConnell show.
684 After 48 hours, the will take the wraps off and the skin
685 begins to slough off. They then begin the tedious process of
686 literally combing the skin off of the leg, thereby hopefully
687 putting the horse back into compliance with the current Horse
688 Protection scar rule regulation.

689 The AVMA and the AAEP recently issued a statement on the
690 impact of the pads and chain: ``What the science says is
691 that raising the heels--placing a horse on pads and wedge--8
692 degrees can cause the horse to stumble and tire easily.
693 Additionally, horses placed on pads and wedges showed
694 inflammation in the flexor tendon area of the pastern.
695 Chains that weigh 6 ounces will start to cause hair loss

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696 without the use of chemical irritants. Chains heavier than 6
697 ounces used on horses that have been previously sored will
698 cause open lesions within 2 weeks. We're happy to say we did
699 our homework and, yes, the science that's available appears
700 to support our position. However, the industry has once
701 again missed the point of the AVMA's and AAEP's decision. The
702 AVMA's and AAEP's primary concern--

703 Mr. {Terry.} Please wrap up.

704 Ms. {Benefield.} --is that the chains and pads are used
705 to exacerbate and hiding soring. For this reason, the IWHA
706 endorses this bill, and we are here today asking for the
707 passage of H.R. 1518 amendment to correct this chronic
708 43-year-old problem. Thank you.

709 [The prepared statement of Ms. Benefield follows:]

710 ***** INSERT 5 *****

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|

711 Mr. {Terry.} Thank you.

712 Ms. Bippen, you are now recognized for your 5 minutes.

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|

713 ^STATEMENT OF TERESA BIPPEN

714 } Ms. {Bippen.} Thank you, Mr. Chairman, and I ask that
715 my testimony and exhibits be included in the official record.

716 Mr. {Terry.} And they will be.

717 Ms. {Bippen.} Thank you. Friends of Sound Horses, or
718 FOSH, is a nonprofit organization that is dedicated to ending
719 the abuse of soring. FOSH is an umbrella organization of 15
720 gaited horse breeds including the Tennessee Walking Horse,
721 Spotted Saddle Horse and Racking Horse. FOSH has been in
722 existence since 1998 and supports the PAST Act.

723 For its entire existence, FOSH has been committed to
724 ending soring. During this time, FOSH has worked with the
725 USDA, developed and populated the largest database in
726 existence of HPA violations, built a public website with a
727 library of all publications on soring since 1956, sponsored
728 three Sound Horse Conferences, and researched numerous
729 technology solutions to detect soring.

730 Although we have often heard from the walking horse
731 industry spokesmen that the problem of soring is the result

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732 of a few bad apples, the total number of HPA violation
733 records is over 10,000 since the mid-1980s. This history of
734 ongoing violations spans more than 40 years, through
735 trainers, entire families, old and new names, and this is why
736 FOSH has reached the conclusion, as have the other endorsers
737 of this bill, that legislative change is the only solution to
738 end the plague of soring.

739 FOSH is one of over two dozen national and international
740 walking horse organizations that support the PAST Act. These
741 organizations have been in existence for many years and do
742 not allow padded and chained horses in their show rings.
743 After trying to bring about change in the traditional show
744 world for years, concerned exhibitors and spectators alike
745 abandoned venues like The Celebration. Banning the padded
746 and chained horse has allowed these organizations to thrive
747 because exhibitors and spectators at their shows do not want
748 to be surrounded by the abuse that occurs in the big lick
749 show world nor do they want to exhibit with people who use
750 illegal means to win a ribbon.

751 Through its research and experience, FOSH has determined
752 that a combination of weak inspections, conflicted DQPs and

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753 the failure of HIOs to report violations has created a
754 culture of acceptance in exhibiting sore horses, which
755 routinely hides and misrepresents the data to deceive
756 Congress and the public about the widespread nature of the
757 problem.

758 A few specific examples of the lack of compliance with
759 the Act among the Big Lick segment of the industry include
760 the USDA reported that at the 2012 Celebration in a random
761 swabbing for signs of foreign, prohibited substances, 145
762 swab samples of 190 tested positive for foreign substances.
763 This is a 76 percent noncompliance rate. Celebration
764 management, however, announced to the public in news releases
765 that it would be swabbing every horse on the grounds for
766 prohibited foreign substances. They reported only two
767 positive swab samples in almost 2,000 entries while the USDA
768 found 145 in a sample of only 190 horses. Based on examples
769 such as this one, FOSH has concluded that the current HIO
770 system is broken, or else there would not be such a large
771 discrepancy between the USDA samples and those of the
772 Celebration.

773 During 2010, 2011 and half of 2012, the violation rate

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774 for three compliant HIOs--FOSH, International Walking Horse
775 Association and National Walking Horse Association--was only
776 .02 percent, or only eight violations out of over 42,000
777 inspections. These three compliant HIOs have perfect
778 inspection records when their shows are attended and audited
779 by the USDA. By contrast, the violation rate at the 2012
780 Celebration was 9 percent, which is 450 times greater than
781 that of the compliant HIOs.

782 In August this year, the USDA released figures for the
783 show season through April 2013 that further support passage
784 of PAST. Of 241 HPA violations, 93 percent of the violations
785 were on padded horses. Not only that, but when the USDA
786 inspectors were present at shows this year, the HPA violation
787 rate was 280 percent greater than when the rate at shows at
788 which USDA was not there.

789 It is the conclusion also of FOSH that weak penalties
790 imposed by noncompliant HIOs are meaningless and do not serve
791 as deterrents. As an example, the top five 2013 Riders Cup
792 contenders share 94 reported HPA violations as reported at
793 the publicly available website, HPAdata.us.

794 Another factor influencing FOSH's support of stronger

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795 penalties is the repeat violator list generated by that same
796 website. This repeat-violator list is 260 pages long single-
797 spaced. Much stronger penalties are needed to serve as a
798 deterrent as the current penalty structure has been
799 meaningless and ignored by violators for many years.

800 While FOSH has been a part of efforts to save the
801 Tennessee Walking, Racking and Spotted Saddle industries by
802 providing a network of horse shows where competitors train
803 horses humanely and play fairly and in compliance with the
804 law, we have noticed that the stigma associated with the
805 problems in the Big Lick industry has caused economic harm to
806 our breeds. Because most true horsemen do not want to be
807 associated in any way with animal abuse or illegal activity,
808 fewer horses are being bred, raised, trained, shod, boarded,
809 fed, treated with veterinary care and shown in our breeds.
810 The negative impact on the economy caused by the ongoing
811 presence of soring and the failure of the Horse Protection
812 Act to eradicate the problem is far reaching. The PAST Act
813 is needed to fix the deficiency in the current law, restore
814 honor to the breeds afflicted by soring and bring more people
815 and dollars back into the horse industry.

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816 In closing, FOSH reiterates that its experience,
817 analysis and research have led it to strongly support PAST,
818 which provides for greater penalties, abolishment of the HIO
819 system and elimination of devices that are an integral part
820 of the abuse of soring. Thank you.

821 [The prepared statement of Ms. Bippen follows:]

822 ***** INSERT 6 *****

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|

823 Mr. {Terry.} Thank you, Ms. Bippen.

824 Now, Mr. Hickey, you are now recognized for your 5

825 minutes, and your statement will be part of the record.

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|

826 ^STATEMENT OF JAMES J. HICKEY

827 } Mr. {Hickey.} Thank you very much for the opportunity
828 to present this testimony on behalf of the American Horse
829 Council in support of the Prevent All Soring Tactics Act of
830 2013.

831 My name is Jay Hickey. I am the President of the
832 American Horse Council. We are a Washington-based
833 organization that represents the horse industry here in D.C.
834 before Congress and the federal regulatory agencies. Our
835 organization's members include organizations that represent
836 show, racing, recreation and stakeholders.

837 You have already heard about soring and its mechanics,
838 the pain it causes the horses, the Horse Protection Act, the
839 continued problems with soring in segments of certain breeds
840 in the bill at issue. I would like to explain the position
841 of the American Horse Council and how we came to support this
842 legislation.

843 It seems strange that an industry would come to the
844 federal government and support additional regulations but

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845 there are good reasons for that. When the original bill was
846 introduced at the end of last Congress, the AHC felt it was
847 worthy of review. We asked two of our committees, our animal
848 welfare committee and our horse show committee, to review it.
849 After meetings, numerous calls, emails, lengthy discussions
850 and serious considerations, it was clear that there was
851 strong support for this bill. I think simply stated,
852 everybody felt it was an idea whose time had finally come.
853 The two AHC committees recommended that the board support it,
854 and we now do.

855 Why do we support this legislation? We support it
856 because soring continues. We have heard testimony about the
857 USDA OIG study. We have heard testimony that a meaningful
858 percent of horses in the performance or Big Lick sector of
859 the walking horse industry are still being sored despite
860 efforts to stop it. Many actions have been initiated over
861 the last 40 years to end this practice, new organizations
862 formed, new promises made, but the problem persists. We
863 support this legislation because soring is garnering more and
864 more adverse and unnecessary publicity for the horse show
865 industry at large.

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866 Witness the press about Jackie McConnell and Larry
867 Wheeling and others. This affects the non-walking horse
868 sector of the show industry. The public sees other breeds
869 doing an animated gait and thinks it is a walking horse and
870 being sored rather than performing its natural gait. That
871 reflects badly on the entire show horse industry.

872 We support this legislation because federal law to
873 prohibit soring has been on the books for 43 years but it
874 continues in a segment of the walking horse industry.
875 Everyone maintains that they oppose soring but there are
876 differences of opinion on how to stop it.

877 Almost on the date the Act was passed 43 years ago,
878 these differences have been discussed, debated, argued,
879 litigated, lobbied, and been the subject of federal
880 rulemaking. The discussion has become toxic within the horse
881 industry. The AHC and major show organizations now believe
882 it is time for the controversy to stop and that only a change
883 to the existing federal law can stop it.

884 Finally, and most importantly, we support this
885 legislation because it is the right thing to do for the
886 horses.

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887 The AHC believes that we need a federal change to the
888 Horse Protection Act, a change to eliminate action devices
889 and stacks in the Big Lick and performance sectors of the
890 walking horse industry, a change to inaugurate a new
891 inspection program that will rely on independent
892 professionals including accredited veterinarians to inspect
893 the horses involved rather than continuing the current failed
894 DQP program, and a change to provide for uniform and strong
895 penalties including disqualification for life if it comes to
896 that. The Prevent All Soring Tactics Act is the answer. The
897 PAST Act is a narrowly drafted bill that is focused on soring
898 and limited to the problem it is trying to solve. It will
899 change the federal law to end the bickering and debate,
900 reform the regulatory system and finally eliminate soring.
901 The PAST Act does not adversely affect or unnecessarily
902 burden other segments of the show horse industry that are not
903 soring horses and have no history of soring horses.

904 The following major horse show organizations support the
905 PAST Act: American Association of Equine Practitioners,
906 American Morgan Horse Association, the American Paint Horse
907 Association, American Quarter Horse Association, Appaloosa

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908 Horse Club, Arabian Horse Association, Pinto Horse
909 Association of America, American Saddlebred Horse
910 Association, U.S. Equestrian Federation, United Professional
911 Horsemen's Association. There are others, but those are
912 national organizations. That is a large part of the show
913 horse industry.

914 For those of you who are familiar with the horse
915 industry, it is an industry famous for a lack of uniformity
916 on anything, lack of unanimity on anything, but in this case,
917 there is amazing consensus and support of the PAST Act. We
918 ask you to pas this legislation. After 43 years of federal
919 regulation and soring continuing, it is the right thing to
920 do. We must stop soring, the culture of soring, and pass
921 this legislation. Thank you, sir.

922 [The prepared statement of Mr. Hickey follows:]

923 ***** INSERT 7 *****

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|
924 Mr. {Terry.} Thank you, and all time for the witnesses
925 has concluded, and so at this time it is our opportunity to
926 follow up and ask questions to the panel. As chairman, I get
927 to go first.

928 So it seems to me that listening and reading your
929 testimony, it boils down into two distinct camps. Maybe
930 ``camp'' is too strong of a word. Everyone seems to agree
931 that the tactics process that we witnessed in the video clip
932 and that we have read about is horrible and should not be
933 part of the walking horse industry. Where there seems to be
934 a spilt between the testimony here is the need for any
935 additional layer of legislation or H.R. 1518 specifically.

936 So I think for me, that is where I want to kind of dive
937 down into is why there is opposition to this bill. Now,
938 Commissioner Johnson, you mentioned in your testimony that
939 there is a problem, although it is small, and that there are
940 reasonable solutions. Could you be more specific in what you
941 think would be the better solution? Turn on your microphone.

942 Mr. {Johnson.} Really, this is an area that I am not an
943 expert in that I look to those who are the experts, and Dr.

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944 Bennett has long been recognized as one of those experts that
945 I consult with, and I would like to him to answer those kind
946 of questions. But I don't feel like I have the expertise.

947 Mr. {Terry.} I appreciate that.

948 So Dr. Bennett, you established your credibility and
949 expertise in an impressive way. So you also mentioned that
950 this bill is not necessary and perhaps goes too far. Would
951 you clarify, A, is there something that should be done? What
952 part of this bill--is any part of H.R. 1518 do you think
953 appropriate and would be effective in stopping these
954 procedures?

955 Dr. {Bennett.} Thank you for the opportunity, and great
956 questions. I would think the greatest part about H.R. 1518
957 has got us in this room so we can discuss this problem. Now,
958 with that said, Mrs. Benefield, who I consider a friend,
959 brought up the fact, just one thing, I am not going to go
960 through the list, but spurs under their saddles. They go
961 through inspections now, the saddles have to be off. That is
962 mandated. The other thing that I would see is like I said,
963 we have science and technology. I have got three digital X-
964 ray machines that can shoot X-rays and have the results in 6

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965 seconds. I have got three thermography cameras. That
966 measures the physiology of the horse. X-rays measure the
967 anatomy. That is science. There is swabbing that you will
968 hear about. There is machines out there--

969 Mr. {Terry.} Do you X-ray? Is this process done before
970 every show or is this just when an accusation has been
971 brought up that you will go the extent of using this new
972 technology?

973 Dr. {Bennett.} The walking horse industry themselves
974 does not have X-ray machines at their inspections. The USDA
975 when they come in bring their X-ray machines and
976 veterinarians and they have the option to X-ray at their
977 discretion. And that kind of came up--if I may, this kind of
978 came up on the X-rays over a 1979 study from Michigan State
979 University on laminitis.

980 Mr. {Terry.} We play them this Saturday, so I hope you
981 say that you want them to lose. Go forward, though.

982 Dr. {Bennett.} Yeah, Kentucky lost basketball and not
983 doing good. But anyway, this is a 1979 study that had to do
984 with horses that had laminitis and if they could come back
985 and be in the show ring. Anybody that does equine podiatry

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986 or works on horses' feet, the science is well past that now.
987 So that is one rule that we are boxed into with radiographs.
988 The good thing is, is the bolts that are under there or any
989 of those things, the X-rays pick those up. You can see them
990 right there on the spot. And that is what I would like to
991 get across is, let us get the science and catch those horses
992 with science objectively before they go in the show ring.

993 Mr. {Terry.} How about the issue that was brought up
994 with conflict of interest with the inspectors? Is there a
995 way to resolve that?

996 Dr. {Bennett.} Yes, it can be resolved. The thing is,
997 they hammer me with 40-some years of history, and I can't
998 argue that. That is the reason I am here. I don't like
999 soring. The problem we have got is with the show, HIO, that
1000 Mr. Whitfield was alluding to that it was started in 2009 as
1001 a result of the AAEP white paper made the inspectors sign a
1002 non-conflict of interest. There are steps in place, but that
1003 is one HIO. There are 13 HIOs. Who certifies those HIOs?
1004 The USDA. I get hammered all the time at these meetings I go
1005 to. We need one HIO. I agree. I agree 100 percent. But
1006 there are 13.

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1007 Mr. {Terry.} Thank you.

1008 Now the ranking member, Ms. Schakowsky, has 5 minutes.

1009 Ms. {Schakowsky.} Thank you. Actually, we are, I
1010 think, seeing two different worlds, one that says no problem,
1011 this may have been a problem, isn't a problem anymore, and
1012 another that says that this is ongoing.

1013 Ms. Benefield, I wanted to ask you, how do you account
1014 for the testimony that we have heard that the walking horse
1015 industry is approaching 98 percent compliance rate, 96
1016 percent compliance with regard to soring that they claim, the
1017 discrepancy in what you see happening?

1018 Ms. {Benefield.} Well, what goes on with a lot of those
1019 horses is, trainers or veterinarians will go in and actually
1020 numb the horses on the show grounds prior to inspection with
1021 topical applications of creams or sprays or they will
1022 actually inject them with numbing agents to get them through
1023 inspection in addition to the stewarding that I discussed.
1024 So the horse is now trained to pas the inspection and not
1025 elicit a pain response. That will interrupt your percentage
1026 rates significantly, and also, the rates that they are
1027 counting on are based on entries. For example, if you have

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1028 10 horses at a horse show and that horse goes in one class
1029 and he is inspected and turned down, that would be a 10
1030 percent noncompliant rate, but if that horse goes in 10
1031 classes each, that is 100 horses and those of the 100
1032 entries, so now you are looking at a 1 percent. So they
1033 dilute the percentages by calling them entries when horses go
1034 in multiple classes rather than calling them just individual
1035 horse individuals.

1036 Ms. {Schakowsky.} Well, how do you know this is
1037 happening still? Dr. Bennett says the technologies have
1038 caught up and that isn't happening anymore. How do you know
1039 it is happening?

1040 Ms. {Benefield.} Well, I have witnessed it. In fact,
1041 at the Celebration, when I worked at the Celebration in 2010,
1042 I observed a veterinarian prior to a class actually injecting
1043 the horse with numbing agents prior to inspection.

1044 Ms. {Schakowsky.} All right. Dr. Bennett, just real
1045 quickly because I have another question for--

1046 Dr. {Bennett.} It makes no sense to numb a horse. One
1047 reason is that we want the exaggerated gait. If you numb his
1048 legs, Dr. DeHaven is a licensed veterinarian, he can tell

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1049 you, they are not going to pick their feet up. The second
1050 thing is, if we have the swabbing and the technology, we can
1051 check for those numbing agents right there on the spot.

1052 Thank you.

1053 Ms. {Schakowsky.} Mr. Irby, you have been associated
1054 with this industry for such a long time and yet you are here
1055 today supporting the legislation. What have you observed?

1056 Mr. {Irby.} Over the past year, I actually kind of did
1057 my own informal study because I did at one time stand up for
1058 the padded performance horse, so I went around from barn to
1059 barn and saw that the majority of all of the trainers were
1060 either still soring horses, would even tell you what they
1061 were doing, applying hand cleaners, WD-40 and kerosene and
1062 mustard oil and things like that to their feet, and went all
1063 over middle Tennessee, parts of Kentucky, Alabama and other
1064 States, and my conclusion was that the majority of everybody,
1065 if not everybody, is still soring horses today in the padded
1066 performance division and that I could not find one single
1067 padded performance horse that had not been sored at some
1068 point in their life.

1069 Ms. {Schakowsky.} Could you speak to the economic

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1070 motivation for trainers to sore and for the Horse Industry
1071 Organizations to turn a blind eye to the practice?

1072 Mr. {Irby.} The main economic factor is that by soring
1073 a horse, a trainer can take a colt that might go buy that is
1074 16 or 18 months old and take him to a training barn and
1075 within 90 days a colt that they purchased for \$500 to \$5,000
1076 they could sell for as high as \$100,000. So it is a way for
1077 them to make a quick buck but it is a detriment to the
1078 industry, and it is only about their personal gain.

1079 Ms. {Schakowsky.} Thank you. I wanted to ask Ms.
1080 Bippen a question. You had talked about at the end of your
1081 testimony that there was an economic benefit to the breeds
1082 that your represent to end this practice. How do you explain
1083 that, that it would actually be beneficial? Because we are
1084 hearing testimony how important it is not to have further
1085 inspections.

1086 Ms. {Bippen.} Yes. The stigma that has attached to
1087 Tennessee Walking Horses has caused quite a few people to not
1088 want to own those horses, and even myself when I explain I
1089 have Tennessee Walking Horses, I have to explain that they
1090 are not show horses and they ask, are they the ones where

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1091 they take those pads and those chains and they put them in a
1092 show ring. So I believe that the Tennessee Walking Horse has
1093 a fabulous disposition and many more people should own one,
1094 but they just do not want to be associated with that soring,
1095 and they don't want to have to worry about participating in
1096 shoes where soring takes place. So without that stigma, I
1097 believe that industry could grow substantially.

1098 Ms. {Schakowsky.} And my time is about up. Thank you
1099 very much, all of you, for your testimony.

1100 Mr. {Lance.} [Presiding] Thank you very much. The
1101 chair recognizes the vice chair of the full committee,
1102 Congresswoman Blackburn of Tennessee.

1103 Mrs. {Blackburn.} Thank you, Mr. Chairman.

1104 Mr. Hickey, thanks for being here. You are testifying
1105 on behalf of the American Horse Council, correct?

1106 Mr. {Hickey.} Correct.

1107 Mrs. {Blackburn.} Okay. Now, you are testifying for
1108 ending the practice of soring, correct?

1109 Mr. {Hickey.} Correct.

1110 Mrs. {Blackburn.} Okay. Now, the major contributing--

1111 Mr. {Terry.} I have to interrupt. Will you pull the

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1112 microphone closer?

1113 Mrs. {Blackburn.} Okay. The major contributing
1114 industry to the Horse Council is the Thoroughbred industry,
1115 right?

1116 Mr. {Hickey.} No.

1117 Mrs. {Blackburn.} Oh, it isn't?

1118 Mr. {Hickey.} No.

1119 Mrs. {Blackburn.} Okay. I have information that it is,
1120 and of course, the Thoroughbred industry has had over 3,000
1121 horses die in the last 4 years, died on the track. So you
1122 are saying there is a presumed problem with the Tennessee
1123 Walking Horse, and I would like to ask you why you think that
1124 is worse than the issue that exists with what the stats would
1125 say is the problem with the Thoroughbred industry?

1126 Mr. {Hickey.} Well, I am testifying today on the PAST
1127 Act. I believe that next week you will have a hearing on the
1128 other bill that Ms. Schakowsky and Mr. Whitfield have
1129 involving medication in racing. That would be, I think, a
1130 more appropriate question then.

1131 Mrs. {Blackburn.} Let me move on.

1132 Mr. {Hickey.} But let me just say--

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1133 Mrs. {Blackburn.} No, let me move on with my
1134 questioning. Let me reclaim my time.

1135 Okay. With the number of deaths in the Thoroughbred
1136 industry, I am curious as to how you can be a proponent for
1137 self-regulation in the Thoroughbred industry but you are not
1138 a proponent for self-regulation in the walking horse
1139 industry.

1140 Mr. {Hickey.} Well, I am not sure that self-regulation
1141 is correct. I am a proponent for amending the Horse
1142 Protection Act, which has been a federal law in existence for
1143 43 years, to amend it very narrowly, I might point out, to
1144 prohibit and finally stop soring, which was passed 43 years
1145 ago to try to do. It has not worked. So that was my
1146 testimony there.

1147 Mrs. {Blackburn.} Okay. Then--

1148 Mr. {Hickey.} We are--

1149 Mrs. {Blackburn.} Let me reclaim my time and move on
1150 with questions then. So if you are for that, now, let me ask
1151 you this, would the American Horse Council support the use of
1152 action devices and pads in the other competitive areas where
1153 these may be used with other show breeds, and what makes the

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1154 action device and pad used in the walking horse industry
1155 different, and then should all breeds be banned from the use
1156 of action devices and pads?

1157 Mr. {Hickey.} Well, all breeds--other people help me
1158 with this, because this gets into some specific breed
1159 questions. Each breed regulates its own showing and classes.
1160 All other breeds prohibit the use of action device and the
1161 large pads and stacks that we are talking about today in the
1162 show ring.

1163 Mrs. {Blackburn.} Okay. Let me--

1164 Mr. {Hickey.} It is only the performance horses--

1165 Mrs. {Blackburn.} --move on to Dr. Bennett then and
1166 have him pick this up.

1167 Mr. {Hickey.} Can I--one--

1168 Mrs. {Blackburn.} Sure.

1169 Mr. {Hickey.} Soring would not be--and again, anybody
1170 else. Soring would not be appropriate or helpful in the
1171 activities and the classes and the shows of other breeds. In
1172 fact, it would be counterproductive. So this Act does not--
1173 although it applies to them, it does not apply to them in the
1174 same fashion. They don't have--they are not regulated

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1175 because they don't sore their horses.

1176 Mrs. {Blackburn.} Reclaiming, and Dr. Bennett, you are
1177 recognized. Do the pad and action devices cause any harm to
1178 the horse?

1179 Dr. {Bennett.} I have done exhaustive research myself
1180 as best I could, and I cannot find going back to the early
1181 1970s any published scientific literature that says that
1182 package or pads on the Tennessee Walking Horses or the action
1183 device cause lameness and/or soring.

1184 Mrs. {Blackburn.} Okay. And--

1185 Dr. {Bennett.} Is there an article out there? Possibly
1186 could be. I could not find it.

1187 Mrs. {Blackburn.} Okay. In your 33 years of working as
1188 a veterinarian and working in the field of walking horse, has
1189 the condition of the horses competing in the ring improved
1190 with regard to compliance with the Horse Protection Act?

1191 Dr. {Bennett.} Yes, I can say that they have improved
1192 according to the Horse Protection Act, and I would like to
1193 comment about the slide that they show of the Tennessee
1194 Walking Horses going around the Celebration ring, and it
1195 makes you think that those horses are sore. Those horses

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1196 that got in the ring have been through the most stringent
1197 inspection process of any horse. The horse that they want to
1198 show should be the one that got turned out. Just a sideline.

1199 Mrs. {Blackburn.} Thank you. Yield back.

1200 Mr. {Terry.} At this point we recognize the gentleman
1201 from Kentucky, Mr. Yarmuth.

1202 Mr. {Yarmuth.} Thank you, Mr. Chairman. Thank all the
1203 witnesses for their testimony. I also want to thank my
1204 colleague, Mr. Whitfield, and also Congresswoman Schakowsky
1205 for their sponsorship of this bill, which I am proud to
1206 cosponsor.

1207 I would like to allow Mr. Hickey--it seemed like you
1208 wanted to make a distinction between this situation and
1209 Thoroughbred racing that you weren't able to make. Would you
1210 like to elaborate on your answer?

1211 Mr. {Hickey.} Well, I mean, we can go into the late
1212 afternoon if we are going to get into other legislation too,
1213 but the situation briefly, and I should not be testifying on
1214 this, but briefly, the medication legislation and
1215 horseracing, it comes down to whether you should allow race-
1216 day medication or not. There is a huge controversy within

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1217 the racing industry as to whether race-day medication is
1218 beneficial or is not beneficial, and that rages on. In the
1219 last 2 years, the uniform rules on race-day medication has
1220 gone into effect in, I think, 11 different States and will go
1221 into effect and there will be uniform rules on January 1.
1222 Now, this is something for a future hearing, but I just
1223 wanted to point that out. There is no debate within the
1224 horse show industry as to whether soring, which is what we
1225 are talking about, is appropriate or not.

1226 Mr. {Yarmuth.} I also want to carry on the conversation
1227 that the chairman started about the nature of the objections
1228 to the bill, because there are several misconceptions, it
1229 seems like, about what the bill--at least differences of
1230 opinion about what the bill does or doesn't do, and you made
1231 the statement and others have made it that this really
1232 wouldn't solve the problem because it doesn't specifically
1233 relate to soring, but in Section 2(d)(1)(B), it clearly bans
1234 soring, I think, when it states that conduct ``causing a
1235 horse to become sore or directing another person to cause a
1236 horse to become sore'' is prohibited. Do you think that--

1237 Dr. {Bennett.} Yeah, I think what I was--

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1238 Mr. {Yarmuth.} --is a sufficient definition? I am
1239 sorry. Go ahead.

1240 Dr. {Bennett.} No, I am sorry. What I was alluding to
1241 is, there again, why are we still having this after 40 years?
1242 The problem that I see is that the inspection process is so
1243 subjective, and what happens is, a horse gets turned down,
1244 say for scar rule violation. If he gets a penalty from one
1245 HIO, that penalty is not recognized by another HIO so he can
1246 go somewhere else and show. The penalties and the
1247 subjectivity of the nature of the inspection is the problem I
1248 have. Let us get down to science, and we could get this
1249 solved. If we use industry numbers, we are at 98 percent.
1250 If we use USDA numbers, we are at 96 percent. We are making
1251 progress, and I have talked to the AAEP--I am an AAEP member--
1252 -and they always say when industry decides that they can show
1253 that they want to help themselves, then we will be glad to
1254 jump in. We are getting there. We are not at the stage yet
1255 that I want to go and say hey, help us, here's what we got.
1256 But we do have proof since 2009 when we got the most
1257 stringent HIO in place, but what happened, when we penalized
1258 those people, they went somewhere else. It is like losing a

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1259 driver's license in this county but you can go to the next
1260 county and drive. It is an inconvenience but you can still
1261 drive. If you took their driver's license away for the
1262 entire North America, then you have penalized them. Does
1263 that answer?

1264 Mr. {Yarmuth.} Doesn't the original Act deal with
1265 transporting horses that have been soled, though?

1266 Dr. {Bennett.} Yes, and that is--this is a very
1267 emotional issue when you start looking at the type of Jackie
1268 McConnell and all that, but there again, the Horse Protection
1269 Act doesn't cover that. It covers transport, showing,
1270 exhibiting and offering public sale.

1271 Mr. {Yarmuth.} There obviously also is a dispute over
1272 the number of the incidents, the frequency, I guess, of
1273 soring, and the number is 97, 98 percent. Obviously Mr. Irby
1274 and Ms. Bippen have very different numbers. Do you want to
1275 elaborate? I know you have got lots of documentation that
1276 you--

1277 Ms. {Bippen.} Yes, I am happy to elaborate on that. We
1278 have been analyzing the data for quite a few years, and we
1279 always analyze it according to the number of horses at a

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1280 show, as Ms. Benefield spoke about, so if you have 10 horses
1281 at a show and three of them are sore, we consider that a 30
1282 percent noncompliance rate. However, recently the numbers
1283 that are coming to us are entries, so if those 10 horses were
1284 in 10 classes, that is 100 entries and they would say now
1285 that it is only a 3 percent noncompliance rate, and so those
1286 are the numbers that are coming back to us now from the
1287 noncompliant HIOs. We are unable to find out the actual
1288 number of horses entered. Now what they are giving us are
1289 the entry rates, and because the flat-shod horses are not
1290 sore generally and they are now becoming more popular, what
1291 they are going to do is boost up the sound horse rate for
1292 those groups.

1293 Mr. {Yarmuth.} I see. Mr. Irby, do you want to
1294 elaborate on that, because you obviously, at least
1295 anecdotally, have a very different opinion.

1296 Mr. {Irby.} Yes, sir. I actually would like to
1297 comment. I can't cite the numbers but if you see the stacks
1298 on the table here and the chains, this segment of our
1299 industry is where the problem is, and I think what Ms. Bippen
1300 is saying is, we don't have this problem, we don't see it

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1301 hardly at all within the normal regularly shod Tennessee
1302 Walking Horse, which that entire division, all those
1303 divisions will still be left for the majority with this bill,
1304 and this bill eliminates this division where the majority of
1305 the problem is, which is less than 10 percent of our entire
1306 breed. Thank you.

1307 Mr. {Yarmuth.} I appreciate that. I yield back, Mr.
1308 Chairman. Thank you.

1309 Mr. {Terry.} Thank you, Mr. Yarmuth, and at this time
1310 recognize the vice chairman of the subcommittee, Mr. Lance,
1311 for 5 minutes.

1312 Mr. {Lance.} Thank you very much, Mr. Chairman, and
1313 good morning to you all, and let me say that I recognize the
1314 expertise of everybody on the panel. This is not an area
1315 that I know well, but certainly I will continue to review the
1316 testimony.

1317 I represent a district in New Jersey that includes the
1318 New Jersey area related to the horse industry. There are
1319 constituents of mine who this time of year ride to the hounds
1320 in places like Bernardsville and Far Hills and Bedminster and
1321 perhaps some on the panel are familiar with that area.

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1322 Although I am from New Jersey and not from the South, I
1323 certainly respect and honor the great State of Tennessee. I
1324 was honored to go to law school in Nashville, and I have been
1325 in Shelbyville as a guest of Mrs. Prentice Cooper, the widow
1326 of one of your great Governors, whose son, Jim, is a
1327 colleague of ours here in Congress. Jim's brother, William,
1328 and my wife and I were in law school together, and I have
1329 witnessed the performance in Shelbyville, I believe at the
1330 end of the summer, regarding the Tennessee Walking Horse.

1331 To Commissioner Johnson, is it possible to continue
1332 showing the Tennessee Walking Horse without soring?

1333 Mr. {Johnson.} I believe the industry has already
1334 proven that yes, it is, but certainly there are individuals,
1335 bad apples, bad actors in every kind of activity--

1336 Mr. {Lance.} Yes, of course, there are bad apples.
1337 Perhaps Congress is aware of that in its own
1338 responsibilities.

1339 To Ms. Benefield, is it possible to continue to show the
1340 Tennessee Walking Horse, eliminating the abuses you suggest
1341 that exist?

1342 Ms. {Benefield.} Yes, I do believe that you can

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1343 continue showing the walking horse without the abuse. You
1344 will notice that according to the records that Ms. Bippen has
1345 been expressing to you, there area lot of shows around the
1346 United States that do not use the pad and chain, and for
1347 example, in California, a show at the Los Angeles Equestrian
1348 Center may have as many as 150 individual horses at a show,
1349 and they are all flat shod, and yet at another venue in Los
1350 Angeles they will have a padded show, and a big class for
1351 them would be two horses or one horse. So the flat-shod
1352 horse is continuing to show around the United States, and
1353 this problem seems to be more centralized in the South now.
1354 It used to be widespread around the United States but it has
1355 become more centralized.

1356 Mr. {Lance.} Thank you. Let me say not as a question
1357 but as a comment, I hope and expect that this is an area
1358 where people of good will can come together, and the purpose
1359 of this hearing is to elicit information from the
1360 distinguished members of the panel who are expert in this
1361 area, and I am hopeful, based upon the expertise of everyone
1362 on the panel, that a solution can occur, and let me repeat, I
1363 recognize the expertise of all on the panel and I do not

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1364 believe that it is appropriate for one part of the Nation to
1365 point a finger at another part of the Nation, and I certainly
1366 want to work with everybody on the panel including those from
1367 the great State of Tennessee, a State that is very fond to
1368 me, and I look forward to continuing this discussion to
1369 protect what we need to protect regarding horses, and
1370 certainly that is true in New Jersey and particularly the
1371 district I serve. I yield back the balance of my time, Mr.
1372 Chairman.

1373 Mr. {Terry.} Thank you, Mr. Lance. At this time I
1374 recognize the gentleman from Missouri, Mr. Long.

1375 Mr. {Long.} Thank you, Mr. Chairman. Mr. Chairman, I
1376 have given the committee a series of statements from
1377 individuals who are deeply concerned about this issue but
1378 weren't able to testify before the committee today. I ask
1379 unanimous consent that these statements be submitted for the
1380 record.

1381 Mr. {Terry.} Without objection, so ordered.

1382 [The information follows:]

1383 ***** COMMITTEE INSERT *****

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|

1384 Mr. {Long.} Technology has caught up with the training.

1385 I think, Mr. Irby, you talked about--or was that Dr. Bennett?

1386 Okay. Can you elaborate on that a little bit?

1387 Dr. {Bennett.} Yes, sir. Thank you for the question.

1388 There again, why are we still having this discussion after 43

1389 years? Why can't we put it to rest? And in my opinion, the

1390 subjectivity of the inspection system along with 13 HIOs

1391 where there is no penalties that are transferred between

1392 them, it makes it a glass ceiling that we can't get above, in

1393 my mind. The technology is there now. Before that horse

1394 goes in the show ring, he could be tested and make sure that

1395 there is no caustic chemicals that we heard about, no numbing

1396 agents that we heard about on there. We could X-ray them and

1397 make sure there is nothing under that pad. We can have

1398 failures there that they can pull the shoes off and put them

1399 back on. The technology is there to stop this without taking

1400 the industry away. And I would argue with the 10 percent. I

1401 think if you read the H.R. 1518, it is weighed shoes, pads,

1402 chains. They do make mention that you can still have a

1403 therapeutic pad or for protection but that is kind of vague

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1404 to me.

1405 Mr. {Long.} I have heard soring described in several
1406 different ways here today, but is it possible through this
1407 new technology that you are talking about to tell if they had
1408 been sored in the past and healed? Can they heal from this,
1409 or can you always see that there is signs where they have
1410 been sored in the past?

1411 Dr. {Bennett.} Yeah, I think you are alluding to, sir,
1412 the change in tissue that we saw on the screen earlier, and
1413 remember, the skin is an organ just like your heart, just
1414 like your liver, just like--

1415 Mr. {Long.} But the skin doesn't show up on an X-ray,
1416 does it?

1417 Dr. {Bennett.} No, sir, but what I am getting to--

1418 Mr. {Long.} When you were talking about the X-rays
1419 earlier, I understand the deal about the bolts or whatever,
1420 but other than they, do they X-ray, or what are you looking
1421 for there as far as the soring?

1422 Dr. {Bennett.} You could look for pressure shoeing,
1423 like Mrs. Benefield said, where they can take and rasp the
1424 sole down. We have parameters that we know that certain

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1425 millimeters of sole depth is protective to the horse's foot.

1426 We could measure that with digital X-rays.

1427 Mr. {Long.} Also during your testimony, you offered to

1428 let us come ride with you which--

1429 Dr. {Bennett.} Yes, sir.

1430 Mr. {Long.} --don't offer, I will probably show up, so

1431 don't invite me anywhere because I will always be there. But

1432 I didn't get your point on what are we going to see in

1433 relation to this topic that would--

1434 Dr. {Bennett.} Yeah, basically what I was getting to

1435 there is, come and see the horses with their clothes off and

1436 with their clothes on. Go to the barns and see how they are

1437 prepped and see how they are ridden and see them getting

1438 ready to go to the shows and go and see how they are

1439 inspected and the process that they go through to get into

1440 the show ring.

1441 Mr. {Long.} Okay. Thank you.

1442 And Mr. Irby, you said that--I don't remember the

1443 fellow's name now that was on the Nightline tape. How old

1444 that Nightline tape?

1445 Mr. {Irby.} I believe it is from May of 2012.

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1446 Mr. {Long.} Okay. And what is the fellow's name that
1447 was--

1448 Mr. {Irby.} Jackie McConnell.

1449 Mr. {Long.} Okay. And you say that you are friends
1450 with him and have been ever since you were a little kid?

1451 Mr. {Irby.} I haven't spoken to him in a long, long
1452 time but I have known him because my parents have been
1453 friends with him--

1454 Mr. {Long.} Probably not since May of 2012. Your
1455 parents what?

1456 Mr. {Irby.} They have been friends with him since I was
1457 5 years old.

1458 Mr. {Long.} Okay. And someone like that, do they not
1459 have a reputation for -- I mean, would they not have known
1460 before this Nightline tape came out? I mean, I would think
1461 that people in any field if they are doing something that is
1462 untoward, illegal--I used to fish a lot of bass tournaments
1463 and there were people that were suspected of cheating and
1464 later proven to be cheating. Most people knew that they were
1465 cheating. Was this not known before this from this
1466 individual?

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1467 Mr. {Irby.} I believe it probably was known. He was
1468 actually on a federal suspension at the time and still
1469 participating in horse shows, and he is not the exception to
1470 the rule. He is the rule. Within the padded performance
1471 division, this is typically the way things are, and you
1472 pretty much have to cheat or you can't compete.

1473 Mr. {Long.} How can it be the rule if 98 percent are
1474 compliant?

1475 Mr. {Irby.} That is mainly because of the masking
1476 agents I believe Ms. Benefield spoke about and things they
1477 can do to hide. I would probably have to defer to Dr.
1478 DeHaven or Ms. Benefield on that.

1479 Mr. {Long.} Let me ask Ms. Benefield, on the numbing
1480 agents that you were talking about earlier, I kind of agree
1481 with Dr. Bennett. I mean, if you are trying to sore to make
1482 them pick up and do this, what do you call the gait again?

1483 Ms. {Benefield.} Big Lick.

1484 Mr. {Long.} The Big Lick, if they are doing this Big
1485 Lick, how does numbing agents--I mean, why would that make
1486 them pick up their feet if their feet are numb?

1487 Ms. {Benefield.} The numbing agents don't in fact make

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1488 them pick up their feet. What the trainers do is, back at
1489 the barn they will numb the horses legs and they will
1490 establish a window--

1491 Mr. {Long.} When you say back at the barn, are you
1492 talking about on the day of the event or are you talking
1493 about back at the barn at home?

1494 Ms. {Benefield.} Back at the barn in training, they
1495 will establish a window of when they put the numbing agent on
1496 and how long it takes for that numbing agent to wear off so
1497 that way they have a timing on when to put it on and how long
1498 they have before it wears off. So they time it in front of
1499 the time they are going to go into the class.

1500 Mr. {Long.} A barn at the show or a barn at home?

1501 Ms. {Benefield.} No, the barn at home. They are
1502 establishing their window.

1503 Mr. {Long.} They numb it there?

1504 Ms. {Benefield.} Then they use that same window--

1505 Mr. {Long.} I am sorry?

1506 Ms. {Benefield.} Then they use that same window for
1507 their application at the horse show so they know exactly the
1508 timing and when to put that agent on and when it will wear

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1509 off so it will work--so it is no longer numbing the leg when
1510 they are in the show ring.

1511 Mr. {Long.} Well, that is pretty good science if they
1512 can do that. I yield back.

1513 Ms. {Benefield.} Well, they do.

1514 Mr. {Terry.} Thank you. Mr. Kinzinger, do you have any
1515 questions?

1516 Mr. {Kinzinger.} No, Mr. Chairman.

1517 Mr. {Terry.} Then the last person is Mr. Whitfield, and
1518 he is last because is actually not a member of this
1519 subcommittee, although he is the chair of Energy and Power
1520 Subcommittee, and so he is a guest of this subcommittee, and
1521 under our rules, the guests go last.

1522 Mr. {Whitfield.} Well, thank you very much, Chairman
1523 Terry, and than all the witnesses today as well.

1524 Dr. DeHaven, I want to ask you a couple of questions.
1525 Dr. Bennett has referred repeatedly about the subjectivity of
1526 inspections to determine soring. Do you agree with him on
1527 that issue? Is it subjective or is it objective?

1528 Dr. {DeHaven.} There is some level of subjectivity
1529 because most of the inspection is based on a digital

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1530 palpation where you are palpating those areas of the foot
1531 that most likely are to be sore. However, having said that,
1532 and with a lot of experience in the field, there has always
1533 been good correlation between what the inspector is finding
1534 on digital palpation and what the technology, thermography
1535 and radiology, will tell you as well. So while Dr. Bennett
1536 referred to a lot of this as new technology, in fact, we have
1537 been using thermography and radiology X-rays for a number of
1538 years. But from a practical standpoint, when you have
1539 hundreds of horses that are going through inspection, you
1540 can't use that on every animal. So the mainstay of the
1541 inspection is digital palpation by that inspector, and
1542 indeed, good correlation between what the inspector is
1543 finding and what the technology would corroborate.

1544 Mr. {Whitfield.} Well, do you believe that the current
1545 HIO DQP system is working?

1546 Dr. {DeHaven.} We have heard a lot about the level of
1547 compliance. I have heard numbers like 96.6 percent and 98.5
1548 percent compliance rate. Two points on that. One would
1549 argue after 43 years of a goal of zero soring, we really
1550 haven't achieved that we meant to years ago. The other is

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1551 that those compliance rates are based on a self-policing
1552 program where you have industry inspectors inspecting the
1553 industry. What the statistics also show is that those
1554 inspectors that work for the industry are about 10 times more
1555 likely to find a violation when they have a USDA veterinarian
1556 looking over their shoulder. So those compliance rates
1557 assume self-policing. When there is oversight, in fact, the
1558 compliance rate goes way down.

1559 Mr. {Whitfield.} Well, it is my understanding that
1560 APHIS sends in inspectors only about 6 percent of the shows,
1561 and the violation rates are much higher there than they are
1562 with the self-policing of the DQPs. Is that correct?

1563 Dr. {DeHaven.} Indeed. If we look at the statistics
1564 from 2012 with 71,000 inspections done by the industry, there
1565 was a 99 percent compliance rate. However, when they are
1566 overseen by a USDA inspector, that compliance rate goes down
1567 to about 94 percent. Stated another way, 78 percent of the
1568 violations that the industry inspectors found during the 2012
1569 show year were found when USDA was present, even though they
1570 are at less than 10 percent of the shows.

1571 Mr. {Whitfield.} Right, right. Well, you know, I don't

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1572 see why people would be opposed to this legislation. This
1573 legislation simply says we will have independent inspectors
1574 trained by USDA, hired by the shows, and it is not even
1575 mandatory that the shows hire those inspectors. If they
1576 don't hire those inspectors, then they are going to be
1577 subject to more penalties. But Mr. Irby, do you object to
1578 independent inspectors trained by the Department of
1579 Agriculture and veterinarians on top of that?

1580 Mr. {Irby.} No, absolutely not. I am 100 percent in
1581 favor of the USDA licensing the inspectors as the bill
1582 provides and doing away with the self-regulation system
1583 because in 40 years we have proven that we cannot do it, and
1584 I believe that is the only way that a truly sound horse will
1585 be able to be--

1586 Mr. {Whitfield.} And Mr. DeHaven, do you support the
1587 legislation in that sense?

1588 Dr. {DeHaven.} Indeed I do. I think it addresses the
1589 self-policing problem. It also narrowly focuses on the areas
1590 where the biggest problems are: the use of the pads and
1591 chains, which contribute to soring.

1592 Mr. {Whitfield.} Yes, and you also said there is no

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1593 reason to have one of these on a horse unless he has been
1594 sore. Is that correct?

1595 Dr. {DeHaven.} It provides an additional incentive to
1596 sore a horse. If you create an injury on that horse's
1597 pastern by the practice of soring and now you are going to
1598 have a change strike that, you are going to get a much
1599 greater reaction than if that animal had not been sore. And
1600 so by removing the change, you remove much of the incentive
1601 to even sore that horse to begin with.

1602 Mr. {Whitfield.} Now, Tennessee Walking Horses are
1603 showed in a lot of places around the country. We have 12 or
1604 13 IHOs, or HIOs, and I am sad to say that the problem does
1605 seem to be in the Shelbyville, Tennessee, area, parts of
1606 Kentucky where PRIDE has been, and parts of Missouri. Those
1607 seem to be the three problem areas. Would you agree with
1608 that, Mr. Irby?

1609 Mr. {Irby.} Yes, sir, I would. It is a majority in the
1610 Southeast but those three are the top three areas.

1611 Mr. {Whitfield.} And what about you, Mr. DeHaven?
1612 Would you agree with that?

1613 Dr. {DeHaven.} I would agree, and that is where the

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1614 concentration of the Big Lick horses is.

1615 Mr. {Whitfield.} And Mr. Bennett, whom I have met with
1616 and who I enjoy being with and he is a personable fellow and
1617 I am sure he does a great job, but he has been very much
1618 involved with the show HIO, and we have the letter from the
1619 Department of Agriculture saying that they are notifying them
1620 that they are going to decertify their program, and we have
1621 another letter, unfortunately, that applies to the Kentucky
1622 HIO PRIDE, and another letter to the Missouri. So this
1623 program is working--this industry is working well without
1624 using soring or action devices in many parts of the country,
1625 but in this one geographical area because of self-policing,
1626 in my humble opinion, it is not working, and that is why we
1627 introduced the legislation.

1628 Dr. {Bennett.} And I would agree with that.

1629 Mr. {Terry.} Your time is expired and now recognize the
1630 gentleman from Kentucky, Mr. Guthrie.

1631 Mr. {Guthrie.} Thank you very much.

1632 Mr. {Whitfield.} Mr. Guthrie, would you just 1 minute?

1633 Mr. {Guthrie.} Yes, I will yield to my friend.

1634 Mr. {Whitfield.} I just wanted to ask for unanimous

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1635 consent to enter into the record the documents that I gave
1636 you all yesterday that we refer to certain websites, and then
1637 also a letter from the ASPCA supporting the legislation.

1638 Mr. {Terry.} All those documents were submitted to us
1639 and to the other side, and there is no objection, so they are
1640 entered.

1641 Mr. {Whitfield.} And also from Mr. Yoho, who is a
1642 Member of Congress from Florida, his letter about the
1643 legislation.

1644 Mr. {Terry.} Without objection, so ordered.

1645 [The information follows:]

1646 ***** COMMITTEE INSERT *****

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1647 Mr. {Guthrie.} Thank you, Mr. Chairman.

1648 Mr. Johnson from Tennessee--and I am sorry, I had to
1649 step into another committee hearing, so you may have answered
1650 this. I know the one question I was going to ask, you did
1651 get to, but you talked about the effect of this bill on the
1652 industry and Tennessee. I am from Kentucky, just north of--I
1653 am in Bowling Green, so I am just a few miles from the
1654 Tennessee border, and I understand Shelbyville and I know
1655 that area. You talked about it is going to affect the
1656 industry in that area, and so my question is, is it bad
1657 actors or is it widespread? That is one thing that is hard
1658 to get out of all the information I tried to receive. One
1659 group is saying it is just a handful of bad actors. There is
1660 a handful saying it is widespread. Then you see
1661 investigations where just a handful of horses are found and
1662 then you see when the USDA comes, they said 52 out of 52 were
1663 found. So it is difficult to come up with exactly--what is
1664 your opinion? Is it bad actors or is it widespread?

1665 Mr. {Johnson.} What I have testified to here today is
1666 the impact it would have on Tennessee's economy, Tennessee

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1667 rural communities, Tennessee charities that depend on these
1668 horse shows for their charitable contributions and
1669 fundraising for the year. For the young people that are
1670 involved in these organizations of showing horses and so
1671 forth, the caring of animals in a proper way, the training of
1672 the animal in a proper way, it is a great tool for raising
1673 kids with. It is a great activity for families to build
1674 their family around. Now, I am not an expert in other areas
1675 that deal with whether it is the bad apple or whether it is
1676 widespread. That is for folks with more tools than I have
1677 available to me. But I can tell you that it will be
1678 devastating to eliminate the Big Lick horse, the performance
1679 horse from being showed, and I think with all due respect,
1680 Chairman, Representative Whitfield, that your bill does much
1681 more than what you have described to this committee, and that
1682 is my concern. It does--I think it will change the industry
1683 around this country tremendously, and I don't have the
1684 details to go into that but--

1685 Mr. {Guthrie.} But if it doesn't just prevent soring,
1686 then my question is, is preventing soring is what is going to
1687 hurt the Tennessee economy or having this method of

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1688 preventing soring?

1689 Mr. {Johnson.} Having this method.

1690 Mr. {Guthrie.} And why is it more--I mean, I am just
1691 trying to get information, unless you want--I can yield to my
1692 friend. Do you want to follow up? Because he brought you
1693 into it.

1694 Mr. {Whitfield.} Well, I mean, we are talking about
1695 independent inspectors here and we are talking about removing
1696 action devices and preventing soring. Other than that, how
1697 is that going to hurt your economy so much?

1698 Mr. {Johnson.} Well, the folks that I depend on tell
1699 me--and I don't have all the details there and I would be
1700 glad to furnish this after the fact if I could.

1701 Mr. {Whitfield.} Sure.

1702 Mr. {Johnson.} But it goes much--your bill goes much
1703 further than that and would eliminate really the performance
1704 horse.

1705 Mr. {Whitfield.} Well, you know, one organization down
1706 there asked me some specific information about this bill. We
1707 sent them a letter explaining in detail that it didn't do
1708 what they said, and they refused to put it on their website

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1709 even. So I think there is some misinformation, but basically
1710 the bill provides independent inspectors, veterinarians
1711 trained by USDA. It gives the show the option of using those
1712 inspectors. If they don't use those inspectors and APHIS
1713 comes in and finds a violation, then there is pretty severe
1714 penalties, but it does eliminate soring and it eliminates the
1715 action devices like this, which Mr. DeHaven and others have
1716 said are not necessary unless you are soring.

1717 Mr. {Johnson.} Could I interject?

1718 Mr. {Terry.} Sure.

1719 Mr. {Johnson.} I agree, I think we need one HIO, okay?
1720 The thing that concerns me is, is you said that the show
1721 managers have an option if they don't want to use the
1722 veterinarian inspectors. If everybody in here is for the
1723 welfare of the horse, what worries me is start having shows
1724 that nobody knows about that no inspectors go to, and those
1725 bad actors that we got, if we don't get rid of them, they are
1726 going to show up there, and if we are after the welfare of
1727 the horse, I think we are creating an issue there that we
1728 haven't perceived yet.

1729 The second thing I would like to see is--I am sorry.

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1730 Mr. {Guthrie.} Well, I just wanted to--Mr. Johnson said
1731 a balanced approach, and I was leaving just as I think
1732 somebody asked you that, and you were going to give the
1733 balanced approach. So how do you stop it then? If this bill
1734 is not a way to stop it, then what does stop it?

1735 Mr. {Johnson.} Let me answer that, but let me finish my
1736 train of thought with Dr. DeHaven and let him interject his
1737 opinion, but my opinion is, and I am all for one HIO. I am
1738 all for licensed veterinarians looking at them. I all for
1739 objective testing, and I am for getting rid of soring. But I
1740 worry that we will find enough accredited veterinarians that
1741 want to go to horse shows on Friday night that start at 6:00
1742 and don't get over with until 2:30 in the morning and then go
1743 back Saturday night and go through it again. Dr. DeHaven can
1744 answer that better than I can.

1745 Mr. {Whitfield.} Do you want to respond, Mr. DeHaven--
1746 Dr. DeHaven? It is a preference, anyway.

1747 Dr. {DeHaven.} I think we will only know the answer to
1748 that question if and when we are faced with that situation.
1749 Clearly, the AAEP, who represents several thousand equine
1750 practitioners, feels that that is feasible and the best

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1751 solution. I think the worst-case scenario that even if we
1752 didn't have veterinarians doing the inspection as is the case
1753 now, at least they would be independent inspectors--

1754 Mr. {Whitfield.} And trained.

1755 Dr. {DeHaven.} --who are trained and assigned by the
1756 Department of Agriculture and not an HIO.

1757 Mr. {Whitfield.} Well, that is why--I mean, I do think
1758 it is significant that every veterinary--

1759 Mr. {Terry.} The gentleman time has--

1760 Mr. {Guthrie.} I will yield back my time.

1761 Mr. {Terry.} Thank you, Mr. Whitfield and Mr. Guthrie,
1762 and no one else here to ask questions, so this will conclude
1763 our hearing.

1764 Now, under our rules, any of the members can submit
1765 questions to you, and it sounds like there is already--
1766 Commissioner Johnson, you mentioned that you wanted to
1767 supply, please feel free to do that. Once you get those
1768 questions from us, if there are any questions to you, we
1769 request that within about 14 days that you comply and get
1770 those back to us. I am not sure anyone is going to do that
1771 but the rules allow that, and I want to let you know that you

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1772 may get those written questions from the committee.

1773 With that, I want to thank each and every one of you for
1774 coming here today and offering your expertise before us. It
1775 is extremely helpful to us to have your insights when we are
1776 dealing with pieces of legislation. So thank you for being
1777 here, and we are adjourned.

1778 [Whereupon, at 11:50 a.m., the subcommittee was
1779 adjourned.]