The Tennessee Walking Horse

Executive Summary

The Tennessee Walking Horse industry is opposed to H.R. 1518 (the Whitfield Anti-Walking Horse Legislation) for the following reasons;

1. The legislation eliminates almost an entire division of a breed but does not eliminate the underlying problem – soring.
2. The legislation eliminates any deterrent impact for any individuals that sore a horse by turning all enforcement over to the OIG and DOJ who have historically only prosecuted a fraction of violations and taken on average 3-5 years to investigate and prosecute
3. The legislation causes a huge negative impact to the economy (insert $'s) and increases the cost to the taxpayers of upwards between $10,000,000 to $20,000,000
4. Between the USDA and industry the current compliance rate is higher than any other regulated industry including the food industry – The USDA allows as acceptable 7.5% of chickens to test positive for salmonella but evidently 1.5%-3.4% (using subjective inspections) is not satisfactory for the Whitfield legislation.

The Tennessee Walking Horse Industry supports Alternative Legislation to eliminate soring through independent objective inspections.

1. The current compliance rate according to the USDA and Industry is between 96.6% and 98.5% respectively.
2. The “package and action device” do not cause soring – as admitted by both the AAEP and AVMA – but they are “implicated”, just like alcohol is “implicated” in DUIs, or guns are “implicated” in robberies and murders.
3. Objective inspections are needed to find and eliminate soring – as stated by the AAEP in their own “White Paper”
4. The industry is prepared and will turn over all inspections and related functions to an Independent governed Horse Industry Organization with Independent inspectors – as suggested in the OIG Audit, the AAEP and many others
TWH Compliance

The following data is presented as found directly from the USDA reports regarding their inspector’s findings for “sore” violations for the shows they attend.

USDA report through Nov, 3, 2013 has the Industry at a 96.7% compliance rate.

USDA reports from 2009 through Nov, 2013 demonstrate the TWH Industry has improved compliance with the Horse Protection Act from 68.6% to 96.7%.

USDA reports for the Celebration, which is the World Grand Championship of the TWH Industry, demonstrate not only the improvement in the compliance rate but the dramatic reduction in overall violations by approximately 75% despite an approximate 280% increase in horses inspected

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<th>Inspections</th>
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<td>141</td>
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<td>Celebration 2013</td>
<td>1952</td>
<td>89</td>
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Finally year over year for 2013 vs. 2012 the USDA violations declined 36.9%
The Tennessee Walking Horse “Package”

The “package and action device” do not harm the horse.

According to the AAEP and AVMA "there is little scientific evidence to indicate that the use of action devices below a certain weight are detrimental to the health and welfare of the horse..."

Whitfield spokesperson and current staff member has stated “Scientifically accepted studies and data indicate that the current regulations concerning action devices and pads do not in any way cause harm to the horse...To consider amendment of the Horse Protection Act Regulations currently in place regarding the action device and pads would be to take action to address a problem which simply does not exist with no scientific proof to the contrary.”

Eliminating the “weighted” shoe in the Whitfield legislation will eliminate over 85% of all show classes, impacting more than 20,000 jobs, $3.2 Billion worth of the economy, and $1.3 Billion worth of horses.

Eliminating an entire breed division without any scientific evidence or even expert veterinarian or veterinarian associations proof of any harm, is not only inappropriate but possibly an unconstitutional “taking”.
The Tennessee Walking Horse Alternative Legislation – Independent Oversight, Independent Inspectors, Objective Inspections

Numerous Organizations and Associations, as well as the OIG have suggested the Industry should implement Independent oversight and only utilize Independent Inspectors.

The Alternative legislation being proposed by the Industry suggests and supports those suggestions.

1. Establishes One Horse Industry Organization – eliminates ability to go to other shows/exhibits if suspended.
2. Establishes Independent board with
   a. Four individuals shall be appointed by the heads of State agencies on agriculture with a preference given to licensed, independent equine veterinarians, two of whom shall be appointed by the Commissioner of Agriculture for the State of Tennessee and two of whom shall be appointed by the Commissioner of Agriculture for the Commonwealth of Kentucky.
   b. Two individuals representing the Tennessee Walking Horse industry shall be appointed from within such industry in accordance with a process developed by the Secretary in consultation with the Walking Horse Trainers’ Association.
   c. Not more than three members representing the American Association of Equine Practitioners or the American Veterinarian Medical Association shall be appointed by the Secretary of Agriculture or the Secretary’s designee in consultation with the American Association of Equine Practitioners, the American Veterinarian Medical Association, or both.

The independent HIO would also be responsible for all inspections by independent inspectors as well as establishing the protocols for objective inspections which have been suggested by the AAEP and others to eliminate the subjective and therefore inconsistent inspections.
ECONOMIC IMPACT – THE TENNESSEE WALKING HORSE

$1.4 BILLION – Tennessee. The total economic impact from the equine industry in Tennessee is $1.4 billion. The indirect business tax revenue received by state and local governments is $61.2 million, and the total estimated economic impact from horse shows and events is $45 million. Tennessee Walking Horses and Spotted Saddle Horses are two of the top five breeds in the Tennessee. *Tennessee Commissioner of Agriculture

$38 MILLION – Shelbyville, Tennessee (Population 20,000). The Tennessee Walking Horse National Celebration (TWHNC) who hosts an annual 10 day horse show which culminates in the crowning of the year’s World Grand Champion, estimates based on show participants and non-participants, that $38,047,876 is generated during those 10 days. Shelbyville, Tennessee also is host to numerous other Tennessee Walking Horse events throughout the year and the financial impact of those events are not included. *TWHNC

$144 MILLION – the combined cost of ownership of show horses in the Ohio Valley (Indiana, Kentucky, Ohio and Tennessee) for a one year period. *November 2012 APHIS Economic Analysis

$70 MILLION - the combined cost of ownership of show horses in the Southeast (Alabama, Florida, Georgia, Mississippi, Missouri, North Carolina, South Carolina, Texas and Virginia) for a one year period. *November 2012 APHIS Economic Analysis

$4.6 MILLION - the combined cost of ownership of show horses in the West (California, Colorado, Montana, Nevada, Oregon and Washington) for a one year period. *November 2012 APHIS Economic Analysis

$57 MILLION – the combined revenue of show horses in the Ohio Valley for a one year period. November 2012 APHIS Economic Analysis

$27 MILLION - the combined revenue of show horses in the Southeast for a one year period. *November 2012 APHIS Economic Analysis

$1.5 MILLION – the combined revenue of show horses in the West for a one year period. *November 2012 APHIS Economic Analysis

$5.2 MILLION – the combined revenue from horse shows in the Ohio Valley for a one year period. *November 2012 APHIS Economic Analysis (Horse shows routinely donate all or a great portion of their net proceeds to charities such as the Lions Club, Rotary Club, Boy Scouts, Ruritan, children’s hospitals, shelters for abused women and children, etc.)

$3.2 MILLION – the combined revenue from horse shows in the Southeast for a one year period. *November 2012 APHIS Economic Analysis
Chairman Terry, Ranking Member Schakowsky and Members of the Subcommittee:

The Performance Show Horse Association appreciates the opportunity to provide a statement regarding H.R. 1518 and the negative impacts this legislation would have on the Tennessee Walking Horse industry and the communities and families that work in and depend on this industry.

The Performance Show Horse Association is a multi-state organization representing walking horse shows, trainers, owners, breeders and other long-time participants in the walking horse industry. Our organization was established to bring about, through the industry, needed reforms that will restore the credibility and integrity of our sport and, at the same time, ensure that those few people who have created a negative perception of our industry are removed. Our goals are to bring common-sense and realistic reforms that will protect the horse and save the industry.

The entire equine world is built on the beauty of the horse, its abilities and the desire of its owners to show, exhibit, and compete to win. By and large, the Tennessee Walking Horse industry stems from a family-based hobby for most owners who love this breed of horse and enjoy the community, tradition and competition the horse show industry provides. The Tennessee Walking Horse is an extremely gentle and docile breed which allows amateur riders of all ages to participate and enjoy this sport. In fact, at this year’s world championship horse show, the youngest rider competing was 4 years of age, with the most “elite” rider winning a championship at age 96. This industry is certainly not about making its participants rich. The average prize for a typical Saturday night horse show is $75 per class with an entry fee averaging $40 per class.

And why is this legislation and the severe economic impacts associated with it being proposed? Because the Humane Society of the United States has an agenda to eliminate the horse as a farm and sport animal. They have an agenda to eliminate the horse from all competitive arenas. Their goal is to make the horse a companion animal. Make no mistake - this is a HSUS bill. The connection between Mr. Whitfield and the HSUS is irrefutable – his wife is a paid lobbyist for the Humane Society of the United States and the Humane Society Legislative Fund.

ECONOMIC IMPACT OF PROPOSED LEGISLATION:

This legislation, if passed, could and would most likely be the death knell of our industry. The Tennessee Walking Horse industry has been hard-hit by the poor economic conditions of the last few years as well as much more aggressive and retaliatory inspection and oversight activities by the U.S. Department of Agriculture. In 2000, there were over 80,000 show horses; today there are approximately 15,000. The very foundation of the Tennessee Walking Horse sport would be decimated. The Celebration, our World Grand Championship, which is akin to the Thoroughbred Industry’s Kentucky Derby or the American Saddlebred’s Worlds’ Championship Horse Show at the Kentucky State Fair, has had a decline of 50% of horses competing in the last 5 years. And the economic impact to this Industry and associated supporting farmers, small businesses and untold employees would be staggering as there are over 20,640 direct and indirect jobs associated with the Tennessee Walking Horse and show horse industry across the country as identified by the USDA’s report in 2012. (See Attached Economic Report – Exhibit A).

NO FACTUAL SUPPORT FOR ELIMINATION OF WEIGHTED SHOES AND ACTION DEVICES:

One of the changes called for in the proposed Whitfield/HSUS bill is the elimination of all “weighted” shoes for Tennessee Walking Horses. It is indisputable that this provision alone would eliminate approximately 85% of
the show and performance horses as outlined in the attached list of “weighted” shoes and associated number of horses. The attached exhibit shows that at sanctioned horse shows, approximately 85% of the classes allowed for participation require a weighted shoe and, under this legislation, those classes and corresponding horses would be eliminated. (Exhibit B attached).

The stated reason for eliminating 85% of the Industry show horses is the allegations that “all horses are sore.” This incorrect statement is continually reinforced by using undocumented and inaccurate inflammatory language that “rampant soring continues”, and there is “massive abuse” in the industry.

It even appears that the legislation’s authors have been able to convince 2 professional organizations, the American Association of Equine Practitioners and the American Veterinary Medicine Association, to make an inaccurate statement with no basis in fact that “because the inhumane practice of soring Tennessee Walking Horses has continued and because the industry has been unable to make substantial progress in eliminating this abusive practice, the AVMA and the AAEP believe a ban on action devices and performance packages is necessary to protect the health and welfare of the horse.” (Emphasis added).

These organizations have stated publically that “there is little scientific evidence to indicate that the use of action devices below a certain weight are detrimental to the health and welfare of the horse…” (AAEP/AVMA joint statement June 14, 2012). As professional organizations, it is surprising that they support legislation that completely disregards their own public statements and the only comprehensive scientific study that has been performed, the “Auburn Study” (Attached as Exhibit C), that documented that the pad and action device utilized today and recognized in current regulations do not cause harm to the horse.

Additionally, the motivations and professional integrity of these organizations must be called in to question as they seek to eliminate the Tennessee Walking Horse industry while remaining strangely quiet about the abuses and deaths that occur on a daily basis within the Thoroughbred Industry. In the period of 2009-2011, over 3000 thoroughbred horses died as a result of racing or the training connected to racing. In this same time period, ONE Tennessee Walking Horse participating in show events died. (See the attached New York Times article regarding this issue – Exhibit D). Interestingly, the AAEP, regarding a piece of legislation seeking to add more regulation to the racing Industry, encouraged Congress to work with the Horse Racing Industry regarding issues it had, not eliminate it as they are proposing here.

However, these inflammatory and incorrect statements by this legislation’s sponsor, the Humane Society of the United States and their supporters are easily countered by FACT. According to the U.S. Department of Agriculture’s Animal and Plant Health Inspection Service (“APHIS”), the regulatory agency charged with managing and overseeing the Horse Protection programs, the HPA compliance rate for the HIO-affiliated Tennessee Walking Horse shows was 98.5% over the period 2009-2012. In fact, in the last year, USDA violations at the Tennessee Walking Horse National Celebration decreased by 33%. Those are the facts. Most importantly, these compliance rates are by and large a result of SUBJECTIVE testing methods, subject to human bias and mistakes, rather than science-based OBJECTIVE testing.

We have not been able to find any other Industry, either government-regulated or self-regulated, that is 98.5% compliant using clearly subjective inspection protocols. By way of example, based on publicly reported numbers generated by the U.S. Department of Agriculture, its Food Safety and Inspection Service (FSIS) branch reports an approximately 98% compliance rate for 2010 and 2011, using we hope objective inspections as they are dealing with our countries food supply. If the Federal government’s own agency is to be believed, and which is in direct contradiction to the misrepresentations of Congressman Whitfield, the Humane Society of United States and their supporters, only a very small percentage of Tennessee Walking Horses are out of compliance with the HPA. We believe, however, that with common-sense and realistic reforms, this number can be further reduced through the industry’s proactive reforms and self-regulation.

Proponents of this bill also claim the weighted shoes used by 85% of the Tennessee Walking horses currently competing are used to “hide” abuse. They claim such soring techniques are “regularly used” and have been “documented”. However, the only documented instance of “pressure shoeing” in the last four or five years was detected through inspections performed by an HIO inspector – not the USDA. We are unaware of the USDA ever prosecuting any individual for allegations related to “pressure shoeing” abuse despite the hundreds of digital x-rays performed by USDA inspectors over the years.
In fact, veterinarian review (Attached as Exhibit E – Statement of Dr. John Bennett) of the Tennessee Walking Horse credits the use of pads with the decrease in laminitis issues found in competition Tennessee Walking Horses as compared to other competitive breeds. Also, Tennessee Walking Horses regularly compete into mid-teen ages and the World Championship Horse show has a class designated for Classic Horses, which are those 15 years of age and older and in this year’s Celebration, 32 Classic horses competed.

THE CURRENT SUBJECTIVE INSPECTION PROCESS:

As noted, it is extremely important that you as a Member of Congress understand the inspection process and methodology placed upon the industry by APHIS. Under the Horse Protection Act, both Designated Qualified Persons (DQPs), inspecting on behalf of the HIOs, and APHIS inspectors utilize subjective testing methods. Nevertheless, the inspection procedure currently used is one of the most extensive and intrusive used in any agriculture-related inspection.

The subjectivity creates significant inconsistencies, allows for the introduction of personal bias and creates constant problems and conflicts. What other industry goes through a series of inspection stations by both DQPs and Government VMOs prior to competition and can pass but fail an inspection 30 or 45 minutes later after it competes?

How can consistency be achieved when 2 different USDA inspectors disagreed 26% of the time when inspecting the same horse at the same time? (See Exhibit F – Joy Smith Affidavit) These are consistent and constant problems that can and should be solved. But, again, even with this subjectivity, the industry’s horses have a 98.5% compliance rate.

CLAIMS REGARDING “FOREIGN SUBSTANCE” TESTING:

Another claim made by the sponsor of this legislation and his Humane Society of United States allies is that in one instance of testing, 52 out of 52 horses tested positive for the presence of foreign substances and, therefore, must be sore. Under current regulation and the testing methodologies used by the USDA inspectors, the Department has a zero-tolerance policy. The current testing methods essentially require a horse’s foot area to be sterile with the exception of certain lubricants identified in the regulations—despite the fact that the Act only prohibits foreign substances which are intended to alter the gait of the horse or mask the inspection process.

Even a proponent of H.R. 1518 (USEF – United States Equine Federation) has said that “zero-tolerance” is an unacceptable protocol. Numerous experts in the field of mass spectronomy (the technology used by USDA inspectors) agree that, given the current technology and advances since its introduction in 1970, a zero tolerance protocol is unacceptable. The technology has improved exponentially and detection on the level of 1 part per billion is possible.

An additional issue with the Department’s Foreign Substance Policy is that they have not developed or identified any type of baseline or tolerance level. They have not established by policy or regulation which “foreign substances, and at what particle level, cause soring. The current “foreign substance” testing returns a “positive” result for any substance present on the horse’s foot – including those which common sense would tell you are not intended to alter the horse’s gait such as hoof paint, fly spray and other normal equine care products.

Additionally, in 2012, the Walking Horse Trainers’ Association instituted a swabbing program aimed at protecting the welfare of the horse and increasing compliance by its member trainers. Both the AAEP and AVMA were approached in face-to-face meetings and through correspondence soliciting the organizations’ involvement in development of the swabbing program and participation in its implementation. Neither the AAEP nor the AVMA chose to assist the industry in its efforts to eliminate soring and, instead, issued a statement supporting the ban on pad and action devices which was contradictory to their previous public statements.

Most significantly, however, is the fact that the Department has NEVER brought an HPA violation case against ANYONE for ANY foreign substance violation. This fact shows that even the Department knows that their methodology, protocols, lack of baseline, lack of any independent or peer-reviewed scientific data concerning acceptable or unacceptable foreign substance and process would not stand up under scrutiny in a court of law.
The statements, therefore, by the author of H.R. 1518, the Humane Society of the United States and their supporters that “all horses are sored”, that “rampant soring continues” and that there is “massive abuse” are, quite simply, factually incorrect and not backed up by any fact whatsoever. When an organization is pushing an agenda, the truth is not a concern. For any individual or group to attempt to use these findings as support for their claims that these horses are sored and/or that the shoes and actions devices should be removed is absurd.

**ADDITIONAL EXPENSE TO FEDERAL GOVERNMENT OF PROPOSED LEGISLATION:**

The Legislative History and records regarding creation of the Horse Protection Act and the amendments in 1976 indicate the clear intent of the legislation was to provide for industry self-regulation that was overseen by and partnered with the Department of Agriculture and APHIS. In fact, the amendments passed in 1976 were a response to the Department’s failure to adequately inspect and Congress’s recognition of the need to create industry inspection methodology through the creation of the Horse Industry Organizations. H.R. 1518 guts the very foundations of the Horse Protection Act and these amendments from 1976, eliminates the self-regulatory mechanics of the bill and turns over to the Department all control, oversight, authority and actions. And yet Congressman Whitfield has stated that “this amendment...does not cost the federal government any additional money.” That statement is false and, in fact, this legislation will cost a great deal if enacted.

First and foremost, the elimination of the HIOs will require ALL tickets written at shows to be adjudicated by the Department as, currently, the HIOs handle that process for the majority of the written tickets. So any ticket written for scar rule, foreign substance detection, soring, etc., must be dealt with by Government staff, attorneys, and support personnel as we certainly would not question Congressman Whitfield’s belief in due process of law. Therefore these violations must be provided that process.

Secondly, the legislation, if enacted, would require additional funding due to the fact that the entire inspection resources of the HIOs will be eliminated and replaced with Government-selected inspectors. The Government, therefore, will have to recruit, manage and schedule for participating shows approximately 100 new Government inspectors. As the Department is currently only able to inspect approximately 6% of HIO-affiliated events, this inspector number would need to be increased accordingly if the Tennessee Walking Horse industry is able to continue its existence as the author of H.R. 1518 claims will be the case.

Despite claims of rampant abuse, from 1982 to 2012, a thirty (30) year period, there were 34 USDA HPA prosecutions which were appealed to a court of appeals and/or judicial officer. Under the proposed legislation, the USDA would be responsible for prosecuting all alleged violations identified by USDA certified inspectors. The USDA’s Program Activity Reports for 2011 indicate 683 violations and in 2012 indicate 582 violations. Based on the USDA’s reports and the allegation that soring is “rampant” and remains undetected, the USDA will be responsible for the prosecution, and any subsequent appeals, of, at a minimum, hundreds of alleged violations each year.

APHIS has admitted that for the current violations they find from their attendance at 6-8% of the shows they believe that the investigation can be completed within 365 days. Also, in a filing in the recent lawsuit, and left undisputed by the DOJ, it was estimated the time lapse between the alleged violation and a decision appealed from the Administrative Law Judge to the Judicial Officer was 49 months. If the accused chose to appeal the Agency decision to an Article III court, the time lapse between the alleged violation and final decision was approximately 70 months. Just these timeframes alone brings into question the viability of this Whitfield/HSUS program to “end soring” since it could be years until a case is prosecuted – if ever.

All expenses associated with DQP training are currently paid for by the HIOs. This includes requirements for an all-day training session EACH year for EVERY inspector, additional sessions for those inspectors who could not attend the initial session, a recurrent session of at least 4 hours EACH year for EACH inspector. It also includes a continuation of the Department’s regulatory requirement of APHIS oversight, monitoring and appraisal of the performance of new inspectors, the apprenticeship requirement of all new inspectors for 2 shows and, as the legislation provides a preference for veterinarians, have a ready schedule of extra inspectors due to professional requirements that conflict with show requirements.

Additionally, regulations require a significant amount of reporting for each show, proper training and actions associated with their enforcement responsibilities and proper consideration and actions related to the provision
of due process of law for those charged or ticketed with violating the Horse Protection Act. And since these new inspectors are federal government employees or subcontractors the security currently required by APHIS will need to be extended to every inspector at every show – not an insignificant cost. All of this while taking into account that the majority of the shows occur on the weekends when most busy professionals want and need personal time with their families. The cost of all of these items will be the responsibility of the United States government.

The USDA itself has recognized the significant costs associated with the undertakings proposed by this legislation. During the rulemaking process of adopting the Regulations implementing the industry self-regulation HIO program, the USDA stated the following:

“[comments] suggested that the DQP program should be operated by the Department and the applicants should be trained and licensed directly by the Department. The Department has neither the personnel nor the funds to carry out such an extensive undertaking and feels that the DQP program should remain in the realm of industry self-regulation.”

44 Fed. Reg. 1158, 1160 (emphasis added).

Additionally, as part of the 2011 rulemaking regarding the adoption of mandatory minimum penalties, the USDA stated the following:

“The Act provides us with the authority to pursue civil and criminal penalties against persons who violate the Act. However, such proceedings may be time-consuming and expensive, and our resources for prosecuting such cases are limited.”


The Office of the Inspector General’s Audit Report of September 2010 also found the following regarding expenses of HPA enforcement:

- Page 113: “Given its limited resources – which APHIS regards as inadequate to send its own veterinarians to the approximately 500 horse shows that are held each year – the agency implemented the program by collaborating with horse industry organizations sponsoring the shows.”

- Page 126: “According to the Horse Protection Act, APHIS employees have the authority to inspect horses and initiate civil proceedings against individuals who are suspected of having abused their horses. Because these proceedings can be long, expensive, and have unpredictable results, APHIS has structured its enforcement process so that horse industry organizations and DQPs are the primary parties responsible for issuing immediate penalties to individuals for violating the Horse Protection Act.” (emphasis added).

Even without taking on activities associated with the inspection process as contemplated by this legislation, as recently as January 11, 2012, the USDA recognized the time and expense associated with just the investigation and prosecution of alleged violations. The USDA has already been forced to prioritize its activities based on limited resources while operating under the current HIO program. (Exhibit G -Jan. 11, 2012, corr. from Gregory L. Parham, USDA Administrator). For the proponents of the proposed legislation to assert there would be no additional costs incurred by the USDA in undertaking to perform ALL inspections and prosecutions, including those currently performed through the HIO system, is unfounded.

Congressman Whitfield also stresses the point that the use of these government inspectors, due to elimination of the DQP Program, is voluntary. In the Horse Protection Act amendments passed in 1976, Congress recognized that the Department of Agriculture could not manage and did not have the capabilities to inspect all of the walking horse shows. Congress, therefore, set up the DQP Program. This legislation eliminates that program, establishes a government-selected and managed program and proposes to pass the inspection costs on to the show manager. If a show manager, however, chooses NOT to utilize this government inspector, he or she assumes the risk and personal liability of an HPA violation and the associated criminal or civil liability. We doubt that many show managers, if any, will believe the provisions of H.R. 1518 are “voluntary.”
CONCLUSION:

As we have noted throughout this statement, H.R. 1518 would eliminate approximately 85% of the current Tennessee Walking Horse industry and 85% of the industry’s economic value to the communities and families that make up this industry. It would result in the unconstitutional taking of over $1.3 billion in property without just compensation through the elimination of the value of these performance horses. It would result in a negative economic impact of over $3.2 billion and the loss of thousands of jobs in each of the affected areas.

It would have a significant cost to the Government through the new requirements and tasks that would have to be assumed by the Department of Agriculture. It violates the intent and spirit of the original Horse Protection Act. It seeks to prohibit weighted shoes and action devices that have been found to have no harmful effect under current regulation. It continues an inspection process that is, by definition, unworkable as it utilizes subjective testing and foreign substance policies that are not realistic, defined or scientifically valid.

The Performance Show Horse Association is committed to the elimination of the small minority of people who sore horses for competitive advantage. As the industry has a 98.5% compliance rate, that number is a small minority. But this elimination must occur in a common-sense, realistic manner that recognizes the original intent of the Horse Protection Act by maintaining the HIO system, requiring shows to be a part of that system, by instituting scientifically valid testing protocols and inspection methods, by eliminating the conflicts of interest and, in so doing, show these magnificent animals in a competitive, but safe, manner.

Our industry is not perfect and more work remains. We can say, however, that we have made, and will continue to make, great strides in eliminating the small minority of bad actors in our sport. No other component of the equine industry can say that. Our industry did not have 3,000 horses die in the last four years.

This legislation, if enacted, will destroy the proud and historic Tennessee Walking Horse industry and this Subcommittee, through this and other statements, testimony and reflection will agree with this analysis. We do, however, remain committed to work with Congress, the Department of Agriculture and APHIS and other reasonable people on realistic common-sense reforms and revisions that eliminates the sore horse, not the show horse.

Thank you for your time and attention to this Statement and we appreciate your consideration of this material. We hope that after the consideration of these facts and supporting material, rather than our opponent’s continued uses of misinformation and inflammatory language, you will understand and appreciate the progress we have made. But we know more needs to be done and we would encourage the Subcommittee to consider the recommendations we have suggested as they represent a common-sense and realistic approach that can make our industry achieve our goal of protecting our horses and saving our industry.
Exhibit 2

Tennessee Walking Horse Compliance with HPA

Recently there have been a lot of purported “facts” that have been provided by the authors of the Whitfield/HSUS House Bill 1518. Most of those facts surround the horrific video of Jackie McConnell mistreating horses at his barn. The Industry has condemned this practice and Mr. McConnell’s actions. He was given a lifetime ban by the Industry and convicted by State authorities for his actions. In no way does the Industry support soring or any mistreatment of our horses. This HSUS undercover video does not support the Whitfield/HSUS’ radical statements that “all horses are sored”. This statement is baseless, reckless and false. It is a blatant and deliberate attempt to deceive both the public and our lawmakers with media sensationalism.

Furthermore, the Horse Protection Act, as written, and the Whitfield/HSUS proposed amendments do not, and will not provide jurisdiction for inspections of private barns. Such inspections are the responsibility of state agriculture departments. As was recently recommended in the Horse Racing Integrity and Safety Act of 2013, hearing November 21, 2013 by the AVMA and AAEP, is the suggestion that the veterinarian on sight should be more active observing the horses at the individuals farm or business where the USDA or State agencies are unaware of what actions are taking place. Unlike the HSUS, which is willing to wait for months while animals are abused, the veterinarians will report any abuse when it is noticed.

In analyzing the last 5 years of the USDA violation reports (of their own inspections) the truth is that the Industry is 96.7% compliant today with the HPA requirements regarding sore horses. These reports are available on the PSHA website if you would like to review them yourselves. In all of the USDA reports please remember that the reported “violations” by the USDA include many “non-soring violations” or “technical violations”, which for purposes of this analysis have been removed.

Also please remember that the inspections themselves are still very subjective. Perhaps the most controversial being the scar rule.

In the HSUS’s Petition for Rule Making, Docket APHIS 2011-0006:

@ Page 9: “over 47% of all HPA violations in 2009 were based on scar rule violations…”

In addition, see the attached affidavit of Joy Smith, former President of the Mississippi Walking Horse Association, regarding a "teaching clinic" held by APHIS on understanding scar rule violations, March 12, 2007, in Holly Springs, Mississippi:

1. Twenty-two (22) horses were presented by participants for evaluation and teaching purposes;
2. VMOs Dr. Burgeois and Dr. Poe performed twenty-three (23) Scar Rule Evaluations on twenty-two horses;
3. One horse was presented on two occasions by two different handlers. Determined out of compliance with the Scar Rule at the initial evaluation, it was later found to be compliant with the Scar Rule when presented the second time by a different handler;
3. These seasoned veterans of the Horse Protection Act failed to render the same opinion concerning compliance with the Scar Rule on six (6) horses, or 26% of the horses they examined and evaluated.
And consider the following statement from 1996: University of California, Davis, California: “...A definitive scar rule is the platform of uniform rules and possibly the effectiveness of the program. The scar rule as presently written has various interpretations among HIOs, USDA, and other stakeholders....” This still holds true.

The information analyzed below only includes those “soring” violations that are the subject of the HSUS/Whitfield authors and supporters’ claims (bilateral, unilateral and scar).

**Key Trend Points**

Despite misleading statements that the Industry is not improving in its efforts to eliminate soring the facts are that from 2009 to 2013 there has been a 28% compliance improvement according to the USDA.

![INDUSTRY COMPLIANCE RATE](image)

Clearly, and in direct contradiction of statements made by the HSUS/Whitfield witnesses at the Commerce Committee Hearing in DC on November 13, 2013 the Industry has gone from a 68.6% compliance rate to the current 96.7%.

- 2009 - 68.6%
- 2010 - 71.2%
- 2011 - 95.2%
- 2012 - 95%
- 2013 - 96.67%

In addition in just the last year between 2012 and 2013 using the USDAs own data when normalized** the number of violations has dropped 34%.
CELEBRATION – USDA/SHOW STATISTICS

The Celebration results for the last 5 years also not only shows the improvement in the Industry’s efforts to eliminate soring but also the total reversal of a problem identified in the OIG Audit for pre 2008 statistics. Under the OIG Audit for data from 2005 to 2008, APHIS veterinarians were present at only 6 percent of all shows, yet DQPs issued 49 percent of all violations at these shows when APHIS employees were present than when they were not. As you can see from the chart below not only has the compliance rate, according to the USDA, improved from 50% to 95.45% but also the HIO did not write more tickets under the oversight of the USDA. Clearly the Industry is serious about eliminating soring and its efforts prove that – even according to the USDA.

And even more impressive is that for 2013 vs. 2012 the USDA violations went from 141 to 89 for a total decline of 52 which is **36.9% lower** and on 103 more inspections.

### Celebration statistics 2009-2013

For the Celebration information here are the USDA and SHOW inspection results

<table>
<thead>
<tr>
<th>Year</th>
<th>USDA INSPECTIONS</th>
<th>SORE VIOLATIONS</th>
<th>RATE</th>
<th>SHOW INSPECTIONS</th>
<th>SORE VIOLATIONS</th>
<th>RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>696</td>
<td>348</td>
<td>50%</td>
<td>2544</td>
<td>138</td>
<td>94.6%</td>
</tr>
<tr>
<td>2010</td>
<td>519</td>
<td>210</td>
<td>59.5%</td>
<td>2564</td>
<td>159</td>
<td>93.8%</td>
</tr>
<tr>
<td>2011</td>
<td>2143</td>
<td>182</td>
<td>91.5%</td>
<td>2427</td>
<td>156</td>
<td>93.6%</td>
</tr>
<tr>
<td>2012</td>
<td>1849</td>
<td>141</td>
<td>92.37%</td>
<td>2293</td>
<td>44</td>
<td>98%</td>
</tr>
<tr>
<td>2013</td>
<td>1952</td>
<td>89</td>
<td>95.45%</td>
<td>1892</td>
<td>20</td>
<td>98.9%</td>
</tr>
</tbody>
</table>
Footnotes

Non soring violations found in USDA reports:

- Shoeing
- Action device (usually 1-2 ounces too heavy)
- A horse is deemed unacceptable (not a HPA violation)
- A horse is deemed “unruly” (not a HPA violation)
- High band
- Bad image (not a HPA violation)
- Refusal of eye exam (not a HPA violation)
- Designated “Non-HPA” violation (clearly not a HPA violation).
- Other (not a HPA violation)
- Not reporting to DQP station (not a HPA violation)
- Refusal to inspect (not a HPA violation)

** The drop from 503 sore violations in 2012 to 318 in 2013, (when normalized for inspection numbers) is 480 (reduced by 23 to reflect 452 fewer inspections) to 318 or a drop of 162, when divided by 480 =33.9% decline year over year for ALL USDA violations!
STATE OF TENNESSEE
COUNTY OF SHELBY

AFFIDAVIT OF JOY SMITH

COMES NOW the Affiant, Joy Smith, and hereby states under oath as follows:

1. My name is Joy Smith. I am a resident citizen of Desoto County, Mississippi.

2. I have been the President of the Mississippi Walking Horse Association since February 2007.

3. I personally worked with APHIS representatives in coordinating a Scar Rule Clinic which was held on March 12, 2007 in Holly Springs, Mississippi. I hired a Court videographer to record the Scar Rule Clinic and maintain a DVD copy of the clinic.

4. The purpose of this Scar Rule Clinic was to have APHIS representatives explain the Scar Rule, including what constitutes a violation and how those violations are detected. The clinic was a hands-on teaching clinic for horse industry participants by the USDA.

5. Lynn Bourgeois, VMO and John Poe, VMO conducted the Scar Rule Clinic on behalf of the USDA.

6. Twenty-two (22) horses were presented by participants for evaluation and teaching purposes by Dr. Bourgeois and Dr. Poe.

7. Dr. Bourgeois and Dr. Poe performed twenty-three (23) Scar Rule evaluations on twenty-two horses.

8. One horse was presented on two occasions by two different handlers. This single horse was found to be out of compliance with the Scar Rule at the initial evaluation, but was later found to be compliant with the Scar rule when presented the second time by a different handler.

9. Overall, Dr. Bourgeois and Dr. Poe, both seasoned veterans of the Horse Protection Act, failed to render the same opinion concerning compliance with the Scar Rule on 6 horses, or 26%. The findings of both VMOs are noted on the attached chart which I created. Exhibit 1 hereto.

10. Photographs of the 'front right and left foot of one horse which rendered different opinions by Dr. Bourgeois and Dr. Poe are attached hereto as Exhibit 2A and 2B.
Further, Affiant sayeth not.

[Signature]

Joy Smith

Sworn to and subscribed before me, a Notary Public, this 16th day of August, 2012.

[Signature]

Christie M. Notary Public

My Commission Expires: 1-31-2016

[Stamp]
<table>
<thead>
<tr>
<th>Horse</th>
<th>Dr. Poe</th>
<th>Dr. B</th>
<th>DPQ - Ira</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>OUT</td>
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<td>23</td>
<td>OUT</td>
<td>OUT</td>
<td>OUT</td>
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</tbody>
</table>

Dr. B and Poe disagreed on 6 of the 23, or 26% and agreed on 17, or 74%.
Exhibit 3

The Tennessee Walking Horse “Package”

By now you have probably heard a lot about the “package” that is used in the Tennessee Walking Horse Industry. But what you probably don’t know is that from a veterinary and scientific standpoint the “package” does not harm the horse – in any way. To put the “package in perspective if you look at the comparison between a running shoe used by humans and the package used by the TWH you will not only find similarities but on a comparative basis the package used on the horse is lighter than what we as humans use when we run. Both have or allow for additional cushion and both are elevated from the heel to the toe – to provide better support and improves the ability to rock or move forward.

PACKAGE WORN BY WALKING HORSES 13. ATHLETIC RUNNING SHOES

Average package weighs 3 pounds [48 oz.]
Average horse weighs 1,000

Average athletic basketball shoe weighs 15 to 16 oz.
A 200 pound player’s shoe is equivalent to a 5 pound package on the horse

RUBBER ON BOTTOMS & HEELS FOR CUSHION

GEL INSERT
Another interesting item is the use of “packages” not only on the TWH but many other horse breeds. As you can see from the pictures below all of these horses have the “exaggerated” gait that is so criticized by the opponents of the TWH, although ironically not of any of these other breeds.

**SHOW HORSES: EXAGGERATED - ANIMATED GAITS: PADS - BANDS - ACTION DEVICES**
**EVERY CHAMPION HORSES HAS A SPECIAL SHOE**

American Saddlebred  
Dressage Horse  
Friesian  
Hackney

**TENNESSEE WALKING HORSE**

Unique Natural Gaits: Flat Walk & Running Walk

Some have described the TWH as “walking behind” and “running up front.”

Through selective breeding, patient training, the use of special shoeing and action devices, the natural gait of the TWH is exaggerated.

“The TWH has a distinct gait quality that helps to explain its unique high stepping animation...” “...By keeping the step length the same at the walk and running walk, the TWH creates overstride. This unique characteristic of TWH movement, overstride, allows the front legs to be high stepping and animated...” “*How the Hoof Meets the Road,*” by Paul Roberson, MS, UT Knoxville.

The TWH undergoes the most stringent inspection of any performance animal in the world and maintains a 98% compliance rate which is comparable to that of the food inspections of FSIS.
As a side note the TWH by its breeding has an “exaggerated” gait which is even evident at birth. Surely no one believes that these baby foals, which have no shoes on their feet are “sored” to obtain the “exaggerated” gait.

Also if you would like to view a video of a TWH that the HSUS/Whitfield camp is claiming needs to be sored in order to have the “exaggerated” gait please go to

Command and Control

http://www.youtube.com/watch?v=TO6CCCfIJJw.

As I am sure you can now appreciate the “facts” provide by the HSUS/Whitfield group don’t hold true – the “package” doesn’t cause soring, harm to the horse or damage the horses feet in any way. Without getting into a lot of scientific detail suffice it to say that in the most comprehensive scientific study performed regarding the TWH it concluded that the package does not harm the horse. If you would like to read the full study it is attached at the end titled the Auburn Study. Needless to say the HSUS/Whitfield opponents to the TWH show horse have never refuted this study, at least not with any facts.

So where does that leave the TWH Industry. Currently the HSUS/Whitfield legislation and their radical supporters are pushing to eliminate the TWH show breed. That is correct – almost the entire show breed which in all probability will devastate the TWH to the extent it may never recover. Set forth below are all the show divisions that the HSUS/Whitfield legislation would eliminate – over 85% of all show classes. That impacts more than 20,000 jobs, $3.2 Billion worth of the economy, and $1.3 Billion worth of horses. Not including all the charities, personal enjoyment the owner and exhibitor enjoy. And please make no mistake about what the next steps are for the HSUS. The HSUS is using the Whitfield amendment to get its foot in the door to the entire equine world. Their goal is to make the horse, like they are trying with other farm animals, a “companion” animal and lawn ornament. If they are successful, with the millions of dollars they spend on lobbying, who knows how many other horse breeds they will devastate in 5 years.
If the Whitfield Bill becomes law, all divisions other than Country Pleasure will be illegal. Those 7 divisions comprise over 90% of the under saddle classes and horses at a typical Tennessee Walking Horse Show including the Tennessee Walking Horse National Celebration®.

**TWH 101**

The Tennessee Walking Show Horse is so versatile that he can be shown in eight different divisions based on how he is shod. Within those divisions there are additional categories determined by such things as tack, under saddle or driving. Below are the eight categories and some examples.

**Flat Shod Shoeing Rules:**

Bands Optional in all Divisions. Metal hoof bands, such as used to anchor or strengthen pads and shoes are permitted, so long as they are placed at least one half inch below the bottom of cornet band.

Clips Optional in all Divisions when drawn from the original steel, or poured.

The shoe is not to extend beyond the bulb of the horse's heel when a perpendicular line is draw from the bulb of the horse’s heel to the ground.

The shoe must not extend more then ¼” beyond the hoof at the toe.

Turn Back will be measured from front to rear of caulk.

**Country Pleasure:**

Maximum 3/8” x 3/4” Stamped steel or aluminum keg shoe
Borium allowed on toe, maximum 1-½” in length, and small spots on heels
Poured Heels allowed

**Trail Pleasure:**

Maximum 3/8” x 3/4” Cold or Hot Roll Steel, or aluminum show
Maximum 1 1/2” turn back
Borium allowed on the caulks but the thickness of the shoe, caulk and borium must not exceed 7/8”

**Lite Shod:**

Maximum ½” x 1” Cold or Hot Roll Steel or aluminum shoe
Maximum 1 ½” turn Back
Borium allowed on the caulks or shoe, but the thickness of the shoe, caulk and borium must not exceed 1 1/8”

**Classic Park Pleasure:**

Maximum ½” x 1 1/2” shoe
Cold or Hot Roll Steel or aluminum shoe
Maximum 1 5/8” turn back
Borium allowed on the caulks of shoe, but the thickness of the shoe, caulk and borium must not exceed 1 1/8”
Plantation Pleasure:
Maximum 1 1/2" x 1/2" shoe, Open to any steel
Maximum 1 1/2" turn back
Borium allowed on the caulks of shoe, but the thickness of the shoe, caulk and borium must not exceed 1 1/8"

Park Pleasure:
Maximum 1/2" x 1 1/8" shoe
Open to any steel
Maximum 1 5/8" turn back
Borium allowed on the caulks of shoe, but the thickness of the shoe, caulk and borium must not exceed 1 1/8"

Park Performance
The Park Performance horse is allowed to have flat pads, wedge pads, or a combination of both that do not exceed a thickness of one inch (1"). Rock back pads are not allowed. Acceptable action devices are allowed.

Performance, Fine Harness, Special Classes
A Performance Horse is a horse that has received training to accentuate the natural gaits associated with the breed. Such horses must perform with action devices to give an added dimension to their performance in the ring. Performance Horses must be shown in pads as required by the shoeing rules and regulations. The Performance Horse pads must exceed those of the Park Performance division. Performance Horses are shown with braced tails, either Walking Horse or humane type. (Caps and Switches are optional)

Acrylic can be used to repair and mend a hoof where the shoe has been thrown and the hoof has been damaged. Acrylic or any other material cannot be used for the purpose of extending the length of the natural hoof in any manner on both feet, which includes the toes or heels. Acrylic can be used to fill in around the nail holes or cracks on the sides of the hoof.

No additional weight shall be allowed on or in the hoof, other than the shoe, nails, and band.
Please understand we do not endorse, approve condone soring or harming our horses. We are sickened by what Mr. McConnell did to the horses under his care. When Lance Armstrong finally admitted he used illegal drugs it was a black eye for bike racing. When 3000 horses die over a three year period in the thoroughbred racing Industry it is an embarrassment to that Industry. Every time a football or baseball player uses illegal drugs it is a black eye for that sport. When a NASCAR driver cheats it is a black eye for that Industry. But NO politician has ever suggested eliminating an entire Industry because of these types of offensive behaviors. Instead all of these Industries have implemented additional oversight and scrutiny to prevent further problems. We believe we are doing this and the Industry should not be eliminated because 1 man chose to do something horrendous.

You may of course hear from the HSUS/Whitfield radicals that the package allows “pressure shoeing” or the ability to put things in between the package and the horses hoof/sole. Again the actual facts don’t bear out their inflammatory statements. In the last 5 years and for over hundreds of thousands of inspections the USDA has not written one pressure shoeing violation to our knowledge. The only pressure shoeing violation was found and written by the HIO, on a horse that had no pad.

Finally, as you now know the “package” doesn’t harm the horse. Eliminate the sore horse not the show horse. Eliminate the sore horse – punish the DEED not the BREED and certainly not the 96.6% [USDA Statistic] or 98% [Industry Statistic] of compliant horses and owners. Do not eliminate these horses bred, shown and loved by the families of this industry.
EXHIBIT 4

The Truth About the Walking Horse Industry

MYTH: The industry cannot reform; reform won’t stop unscrupulous trainers from soring horses

FACT:

- SHOW Horse Industry Organization (HIO), the largest HIO, has proven reform works.
- The USDA has praised SHOW for its tough inspections and even adopted some of SHOW’s inspection processes.
- Since SHOW’s inception, violations have been decreasing and last year and last year they have a 98.5% compliance rating with the HPA.
- Below is the progress by numbers, showing the dramatic reduction in USDA violations at SHOW events.

![Graph showing a dramatic reduction in USDA violations at SHOW events](image)

MYTH: The industry cannot self regulate and is not willing to call out abusers

FACT:

- SHOW has the strictest inspections and harshest penalties in the business.
- Since SHOW’s inception, violations have been decreasing and last year they received a 98.5% compliance rating from the USDA.
- In the last three years SHOW HIO has suspended 155 trainers for one year for a finding of bilateral sensitivity – more than any other HIO or the USDA in its history (the USDA has only pursued 52 federal cases in the forty years since the passage of the Horse Protection Act).
- SHOW’s inspections, where the USDA was not even present at the show, have resulted in the first two criminal prosecutions of HPA violations in approximately 20 years.
- Recently, SHOW issued three lifetime suspensions, one for pressure shoeing and two for use of a distraction device, one 7.5 year year suspension for falsification of records, and two 1--year suspensions for swapping horses. SHOW HIO found all four of these violations at horse shows where the USDA was not present.
MYTH: The industry is at odds with Federal Regulators and Animal Advocates

FACT:
SHOW HIO has implemented at least 90% of the recommendations of the AAEP White Paper on the Tennessee Walking Horse.
SHOW HIO had already implemented numerous items, including eliminating all conflicts with DQPs identified in the OIG Audit ofAPHIS calling out the industry for problems.

MYTH: In 2011, 52 of the 52 horses swabbed by the USDA at The Celebration were found to have been sored.

FACT:
- The USDA uses a zero tolerance concept for its swabs which given the advancement in technology is recognized by experts in the field as an improper tolerance. In addition, the USDA does not have a baseline or recognize any therapeutic substances that are allowed under the HPA. For instance one of the illegal foreign substances they identified was cholesterol, which makes no sense at all.
- Detection of a foreign substance does not mean there was abuse or an attempt to hide abuse. In some cases, horses are testing positive for foreign substances because they were washed with a certain soap, the trainer used fly spray or any number of other substances that are not harmful to a horse, or it could be something as simple as the trainer used face lotion in the morning then touched the horse.

MYTH: People sore horses because the prize money is huge

FACT:
- The horse that wins the biggest contest at The Celebration wins $15,000.
- At the 4th of July shows, the biggest weekend aside from The Celebration, the average first place horse made $100. With an entry fee of $35, that is a $65 profit before any expenses are factored in.
- The average price of a show horse is less than $20,000.
- The average breeding fee is $??.
- Trainers on average charge between $500-800 per month per horse.

MYTH: Industry only matters to a small group of trainers and owners

FACT:
- There are XXX horse shows each year.
- The Show Horse and Tennessee Walking Horse Industry account for over 380,000 direct and indirect jobs across the country.
- The Show Horse component of the United States’ horse industry represents approximately $11 BILLION DOLLARS of impact to the economy of the United States.
- In Shelbyville alone, the home of the National Celebration, the industry accounts for more than $50 million in economic activity
- More than 90% of walking horse shows contribute proceeds to charities. The Tennessee Walking Horse National Celebration alone contributes over $200,000 each year to local civic organizations and charities.
MYTH: The industry does not want to work with the USDA

FACT:

- The lead veterinarian and inspector for SHOW HIO agrees with the USDA inspectors close to 100% of the time, when those rogue inspectors who do not play by the rules are not present.
- SHOW HIO cannot reform the industry alone, only the shows they control. To reform the industry, SHOW must partner with the USDA to implement reforms.
- In the last year, the reformers in the walking horse industry have reached out to and asked to partner with the USDA repeatedly.
- At the 2011 Celebration, SHOW and USDA inspectors agreed on 98.9% of the entries inspected.
Exhibit 5+

Consider attaching or discussing other materials – Foreign Substance, Inspections etc