



## **PREVENT ALL SORING TACTICS ACT OF 2013 (H.R. 1518)**

### **Frequently Asked Questions**

#### **What is the Horse Protection Act and why was it enacted?**

The Horse Protection Act (HPA or Act) is a federal law that was passed in 1970 to stop the cruel practice of “soring” horses that was occurring in sectors of the horse show industry, primarily the Tennessee Walking Horse and Racking Horse industry. In the 1950s, some horse owners and trainers who wanted to improve their horses’ chances of winning began to sore their horses as a shortcut in place of longer and more conventional training methods. As this practice spread, public concern over the practice led to the passage of the federal law.

#### **What activities does it prohibit?**

The federal law prohibits the showing, sale, auction, exhibition, or transport of horses that have been “sored.” The HPA was passed in 1970 in response to the growing practice of soring of horses to cultivate an accentuated gait on some horses for showing or sale. The Act and its enforcement have traditionally been aimed at those sectors of the walking horse show industry that push for a particularly accentuated gait, known as the “big lick” or “performance” gait, while showing.

#### **What is soring?**

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

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

Simply stated, the purpose of soring is to intentionally cause a horse to suffer pain in the lower part of its front legs in order to produce a higher gait in the show or sales ring. By

1616 H Street NW 7th Floor · Washington DC 20006 · 202-296-4031 · Fax 202-296-1970

Email: [AHC@horsecouncil.org](mailto:AHC@horsecouncil.org) · Web Address: [www.horsecouncil.org](http://www.horsecouncil.org)

making it painful for the horse to put weight on its front legs when moving, the horse lifts them in a quick manner when they strike the ground, reacting with a very accentuated lifting of the foot. This produces an exaggerated gait. The addition of action devices and stacks of pads heightens the effects of other methods of soring or causes soring itself to produce an even more accentuated gait. The accidental injury of a horse while showing, training or any other activity is not considered soring and is not a violation of the HPA.

### **Who enforces the HPA?**

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

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

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

### **How is the show industry affected by the HPA now?**

The HPA is 43 years old. The horse show industry has been living under it since 1970. Some segments of the horse show community are actively regulated by it, while other segments hardly know of its existence. As a practical matter, this is because the tripwire for its enforcement is the existence of a sore horse, as defined above. The condition precedent for the USDA activity called for in the HPA is the showing, sale, auction, exhibition or transport of a sore horse. For this reason, USDA has properly focused its enforcement on those areas of the horse show community that are likely to involve breeds and activities that are the most frequent objects of soring. If a breed, discipline, or activity is not soring its horses to exaggerate their gait, then as a practical matter the Act has likely not affected its activities and the bill to amend the Act, if passed, will not impact it.

The HPA is technically applicable to all shows, exhibits, sales or transporting of horses and has been for forty plus years. But because a breed or discipline has no history or soring horses, or because soring the horse would be counterproductive to the horse's performance, or because a training method or action device is not intended to produce the accentuated gait of walking and racking horses, these other shows and sales are not actively regulated by USDA, do not use DQPs, and have operated almost unaffected by the HPA. This is likely to continue even if the amendments proposed to the HPA are passed.

### **Does soring and other problems with soring continue today?**

In September, 2010, the USDA Office of Inspector General (OIG) issued its report on the enforcement of the Horse Protection Act Program. The OIG initiated this audit to evaluate the effectiveness of USDA's enforcement of these laws. The field work was performed from August 2008 through August 2009.

The OIG report found that soring continues in the big-lick and performance sectors of the horse show industry; it has not stopped as the 1970 law requires. More specifically, the OIG report found, among other things, that APHIS' program for inspecting horses for soring was not adequate to ensure that walking horses were not abused; that the budget of less than \$500,000 annually for 40 years was not sufficient; that DQP inspectors used at shows often were involved in the industry, had a conflict of interest, and did not always inspect horses in accordance with the HPA and regulations; that DQPs did not always issue violations to the responsible individual; and that APHIS inspection teams could not ensure that participants who had been suspended for prior HPA violations were not still participating.

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

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

To view the complete OIG audit and USDA's responses to OIG's recommendations, please go to: <http://www.usda.gov/oig/webdocs/33601-02-KC.pdf>

USDA, OIG and others who deal with the HPA and soring cite continued instances of soring today. For example, the OIG Report states that during the 2011 Tennessee Walking Horse National Celebration, all the swabs taken by USDA to test for prohibited foreign substances on the limbs and feet of horses shown tested positive for soring agents, or masking or numbing agents used to prevent detection that the horses had been sored.

In a recently-released USDA report for 2012 activities, the Department stated that 76% of the horses tested at the 2012 Tennessee Walking Horse National Celebration tested positive for foreign substances. The report found that for the entire year, USDA tested 478 horses at 24 shows and found that 309 horses, 65%, were positive for foreign substances.

In calling for a ban on action devices and pads, the American Association of Equine Practitioners (AAEP) and the American Veterinary Medical Association (AVMA) noted that “because the inhumane practice of soring Tennessee Walking Horses has continued for 40 years after passage of the Horse Protection Act, and because the industry has been unable to make substantial progress in eliminating this abusive practice, the AVMA and AAEP believe a ban on action devices and performance packages is necessary to protect the health and welfare of the horse.”

In early April, 2013 a Fayette County, Tennessee grand jury indicted former Walking Horse trainer Jackie McConnell on more than 20 counts of animal cruelty in connection with the alleged soring of Tennessee Walking Horses. Last year a federal grand jury in Tennessee handed down a 52-count indictment against McConnell and two others. All three pled guilty to lesser offenses and the federal judge accepted the terms of the plea agreements.

On April 18, agents of the Blount County Tennessee Sheriff’s Department arrested Larry Wheelon, a walking horse trainer, on felony animal cruelty charges for allegedly soring horses in his care. Mr. Wheelon had been cited previously at least 15 times for violations of the Horse Protection Act. 19 horses were seized during the raid. The horses’ legs were wrapped in cellophane and leg wraps and were alleged to be sore by a USDA veterinarian.

### **Why was the legislation to amend the HPA introduced?**

Although the HPA has been the law for over 40 years, soring continues in those segments of the horse show industry that the Act is directed at, those segments in the big-lick and performance sector of the Tennessee Walking Horse, Racking Horse and Spotted Saddle Horse show industry. While there are many showing these horses without soring, others continue the practice even in the face of federal legislation. The bill was introduced to deal with the continuing problems in those segments as outlined in the USDA OIG Report.

## **If this bill is passed, what will it specifically do?**

The bill would make several major changes to the HPA. It would:

- Prohibit a *Tennessee Walking Horse*, a *Racking Horse*, or a *Spotted Saddle Horse* to be shown, exhibited, or sold at auction with (1) an “action device,” or (2) “a weighted shoe, pad, wedge, hoof band or other device or material” if it is constructed to artificially alter the gait of such a horse and is not strictly protective or therapeutic. These new prohibitions would not apply to other breeds and would not prohibit the use of therapeutic pads, or bell boots or quarter boots, or shoes that are used by other breeds in showing.
- Increase fees and penalties for violations for soring, including the potential for a lifetime ban for repeat offenders.
- Eliminate the industry’s ability to self-police with industry-selected DQPs by creating a new licensing process for inspectors requiring USDA to train, license and appoint independent inspectors for shows, auctions and other HPA-regulated venues that seek to hire an inspector. Licensed or accredited veterinarians would be given preference for these positions. The decision to hire an inspector, however, would still be up to the show, sale or auction. It would not be made mandatory. Shows or sales that employ DQPs now would begin using USDA-selected inspectors. Shows or sales that choose not to use DQPs now would not be required to use them should the bill pass.

While the HPA technically applies to other breeds and other horse shows, sales, and auctions, this bill, if enacted, would have little additional impact on shows or sales that do not involve Tennessee Walking Horses, Racking Horses, or Spotted Saddle Horses because other breeds do not typically sore their horses, and have no history of soring horses, to attain an exaggerated gait in the show ring. Other breeds may continue to use action devices or pads while showing subject to the current overriding requirement that any devices not actually sore the horse.

### **Does the bill define action devices?**

The bill defines an “action device” as any boot, collar, chain, roller, or other device that encircles or is placed upon the lower leg of a horse so that it can rotate around or slide up and down the leg, so as to cause friction, or strike the hoof, coronet band, fetlock joint, or pastern of the horse. “Action devices” are not currently defined in the law, although the HPA regulations presently include a definition that is almost identical to the proposed statutory definition. The new definition would exclude “soft rubber or soft leather bell boots or quarter boots that are used as protective devices.”

### **Why does the bill prohibit action devices, chains and pads on the three breeds?**

All are used to sore horses, usually in conjunction with chemical irritants or substances.

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

The United States Equestrian Federation (USEF), the national governing body for equestrian sport in the United States, disallows action devices in the show ring for all recognized national breed affiliates.

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

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

### **Does the Whitfield bill extend the scope or reach of the HPA?**

Currently, the HPA prohibits showing, transporting or sale of sore horses at auction, not the actual soring itself. The bill would expand prohibited activities to include the actual soring of a horse, the direction of someone to sore a horse, and the use of action devices or pads on *Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses*. Other than that it would not expand the scope or reach of the HPA to other horses or activities.

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

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

**Does the Whitfield bill change the focus of the HPA?**

No, the focus of the HPA remains on the soring of horses, a practice that has been outlawed for over 40 years. In fact, it can be argued that the amendments refocus the current law even more on those sectors of the show industry that have been soring horses, the Tennessee Walking Horse, Racking Horse and Spotted Saddle Horse industries.

Like the present HPA, as a practical matter this legislation applies to shows, exhibits, sales and auctions that involve sore horses. If the activity or event does not include sore horses, it does not apply or extend the scope of the current HPA to apply to these other breeds, events or activities.

**Will the prohibition of action devices and pads affect all Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse shows?**

No, just those in the big-lick or performance sectors that permit the use of action devices or excessive pads now. Many walking horse shows already prohibit the use of action devices or excessive pads during their shows.

**What will change for equine events should the Whitfield bill pass?**

Tennessee Walking Horse, Racking Horse and Spotted Saddle Horse shows, exhibits, and auctions that allow their horses to be shown in action devices and pads will be affected. All shows or sales that use DQPs, including so-called “flat shod” walking horse shows that do not allow action devices or pads, will be affected in that they will have to use USDA-inspected and appointed inspectors if they want to hire inspectors, rather than the current DQP system. Shows not involving walking horses are not likely to be affected at all as a practical manner.

**Does the HPA regulate all activities involving horses?**

No. The HPA only regulates horse shows, exhibits, or auctions and is focused on those involving horses that have been sored. The Act, and the amendments to it in the PAST Act, do not apply to racing, steeple chasing, rodeo, hunting, parades, trail rides, or recreational riding.

**Why not just enforce the HPA that has been in effect for 40+ years; why pass new prohibitions?**

There are several reasons why additional prohibitions are called for and most were outlined in the USDA OIG Report referenced above. Simply enforcing the current law has not eliminated soring, even after 40 years. The plain truth is that there is not enough

funding for USDA to do an adequate job. As the OIG Report concludes, Congress has never appropriated enough money for USDA to seriously enforce the current law. USDA's budget for the Horse Protection Act program has remained unchanged since its inception, over 40 years ago. The result is that the Department has enough money to send its inspectors to only a small percent of the sanctioned walking horse shows held each year. In addition, whenever various groups ask Congress to increase the appropriation for enforcement of the HPA, and the AHC and the AAEP are among those organizations, other organizations, individuals, and shows that oppose changes have lobbied Congress to keep the funding level low to stifle adequate enforcement.

The changes called for in the PAST Act will eliminate the devices, pads and wedges used to sore horses. The effect of the changes will be to make it simpler to enforce the Act and protect the horses. Additional funding is still needed, but these changes will finally help to prevent the methods used to sore horses even without increased funding.

### **Should the horse industry be concerned about the Whitfield bill?**

Anytime that the Congressional spotlight shines on an industry and Congress is considering amending laws that affect it, that industry should be concerned. Like any federal bill, a weighing process must be used to decide whether the purpose and potential effects of the federal changes outweigh the additional regulations to be imposed. In this case, after 40 years of living with a federal law to end soring, many organizations and individuals in the horse industry feel that the scales now tilt in favor of amending the HPA to end soring in those breeds and sectors that continue the unfortunate practice.

### **Why is the AHC supporting this legislation?**

The AHC supports this legislation, as does the American Association of Equine Practitioners, the American Morgan Horse Association, the American Paint Horse Association, the American Quarter Horse Association, the Appaloosa Horse Club, Arabian Horse Association, the Pinto Horse Association of America, the Maryland Horse Council, the American Saddlebred Horse Association, the United States Equestrian Federation, the United Professional Horsemen's Association, the American Veterinary Medical Association and other groups.

Various efforts have been made since enactment of the HPA forty years ago to stop the soring of horses, and they have not accomplished the purpose of the 1970 Act – to end soring. This bill is focused on the problem it is intended to solve and does not adversely affect other segments of the show industry that are not soring horses and have no history of soring horses. The bill will not expand USDA authority with respect to other breeds and disciplines. For these reasons, the AHC supports the amendment of the HPA.

The AHC will be involved during the Congressional process and will oppose any efforts, amendments, or attempts to broaden the Act or its enforcement that would adversely or unnecessarily affect any breeds, disciplines, or horses that have no history of soring.