

106TH CONGRESS
2D SESSION

H. R. 4801

To consolidate and revise the authority of the Secretary of Agriculture relating to protection of animal health.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2000

Mr. PETERSON of Minnesota (for himself and Mr. POMBO) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To consolidate and revise the authority of the Secretary of Agriculture relating to protection of animal health.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Animal Health Protection Act”.

6 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Restriction on importation or entry.
- Sec. 5. Exportation.
- Sec. 6. Interstate movement.

- Sec. 7. Seizure, quarantine, and disposal.
- Sec. 8. Inspections, seizures, and warrants.
- Sec. 9. Detection, control, and eradication of diseases and pests.
- Sec. 10. Veterinary accreditation program.
- Sec. 11. Cooperation.
- Sec. 12. Reimbursable agreements.
- Sec. 13. Buildings, land, people, agreements, and claims.
- Sec. 14. Firearms.
- Sec. 15. Penalties for violation.
- Sec. 16. Enforcement.
- Sec. 17. Authorization of appropriations and transfer authority.
- Sec. 18. Regulations and orders.
- Sec. 19. Preemption.
- Sec. 20. Severability.
- Sec. 21. Repeals and conforming amendments.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) the prevention, detection, control, and eradi-
4 cation of diseases and pests of animals are essential
5 to protect animal health and the health and welfare
6 of the people of the United States, the economic in-
7 terests of the United States livestock and related in-
8 dustries, the environment of the United States, and
9 interstate and foreign commerce of the United
10 States in animals and other articles;

11 (2) animal diseases and pests are primarily
12 transmitted by animals and articles regulated under
13 this Act;

14 (3) the health of animals is affected by the
15 methods by which animals and articles are trans-
16 ported in interstate commerce and foreign com-
17 merce;

1 (4) the Secretary must continue to conduct re-
2 search on animal diseases and pests which con-
3 stitutes a threat to the livestock of the United
4 States; and

5 (5) all animals and articles regulated under this
6 Act are in or affect interstate commerce or foreign
7 commerce, and regulation by the Secretary and co-
8 operation by the Secretary with other nations, States
9 or other jurisdictions, or persons are necessary to
10 prevent and eliminate burdens on interstate com-
11 merce and foreign commerce, to regulate effectively
12 interstate commerce and foreign commerce, and to
13 protect the agriculture, the environment, the econ-
14 omy, and the health and welfare of the people of the
15 United States.

16 **SEC. 3. DEFINITIONS.**

17 As used in this Act:

18 (1) ANIMAL.—The term “animal” means any
19 member of the animal kingdom (except humans), in-
20 cluding embryos.

21 (2) ARTICLE.—The term “article” means any
22 pest or disease or any material or tangible object
23 that could harbor pests or diseases.

24 (3) DISEASE.—The term “disease” means any
25 infectious or non-infectious disease or condition af-

1 fecting the health of livestock or any condition detri-
2 mental to production or marketing of livestock.

3 (4) ENTER AND ENTRY.—The terms enter and
4 entry mean to move into, or the act of movement
5 into, the commerce of the United States.

6 (5) EXPORT AND EXPORTATION.—The terms
7 export and exportation mean to move from, or the
8 act of movement from, the United States to any
9 place outside of the United States.

10 (6) FACILITY.—The term “facility” means any
11 structure.

12 (7) IMPORT AND IMPORTATION.—The term im-
13 port and importation mean to move into, or the act
14 of movement into, the territorial limits of the United
15 States.

16 (8) INTERSTATE.—The term “interstate”
17 means—

18 (A) from one State into or through any
19 other State; or

20 (B) within the District of Columbia,
21 Guam, the Virgin Islands of the United States,
22 or any other territory or possession of the
23 United States.

1 (9) INTERSTATE COMMERCE.—The term “inter-
2 state commerce” means trade, traffic, or other
3 commerce—

4 (A) between a place in a State and a point
5 in another State, or between points within the
6 same State but through any place outside that
7 State; or

8 (B) within the District of Columbia,
9 Guam, the Virgin Islands of the United States,
10 or any other territory or possession of the
11 United States.

12 (10) LIVESTOCK.—The term “livestock” means
13 all farm-raised animals, including embryos of such
14 animals.

15 (11) MEANS OF CONVEYANCE.—The term
16 “means of conveyance” means any personal property
17 used for or intended for use for the movement of
18 any other personal property.

19 (12) MOVE AND RELATED TERMS.—The terms
20 move, moving, and movement mean—

21 (A) to carry, enter, import, mail, ship, or
22 transport;

23 (B) to aid, abet, cause, or induce the car-
24 rying, entering, importing, mailing, shipping, or
25 transporting;

1 (C) to offer to carry, enter, import, mail,
2 ship, or transport;

3 (D) to receive in order to carry, enter, im-
4 port, mail, ship, or transport;

5 (E) to release into the environment; or

6 (F) to allow any of the activities included
7 within this paragraph.

8 (13) PERSON.—The term “person” means any
9 individual, partnership, corporation, association,
10 joint venture, or other legal entity.

11 (14) PEST.—The term pest means any living
12 stage of any of the following that can directly or in-
13 directly injure, cause damage to, or cause disease in
14 any animal:

15 (A) A protozoan.

16 (B) A plant.

17 (C) A bacteria.

18 (D) A fungus.

19 (E) A virus or viroid.

20 (F) An infectious agent or other pathogen.

21 (G) An arthropod.

22 (H) A parasite.

23 (I) A prion.

24 (J) A vector.

1 (K) Any organism similar to or allied with
2 any of the organisms specified in the preceding
3 subparagraphs.

4 (15) SECRETARY.—The term “Secretary”
5 means the Secretary of Agriculture.

6 (16) STATE.—The term “State” means any of
7 the several States of the United States, the Com-
8 monwealth of the Northern Mariana Islands, the
9 Commonwealth of Puerto Rico, the District of Co-
10 lumbia, Guam, the Virgin Islands of the United
11 States, or any other territory or possession of the
12 United States.

13 (17) THIS ACT.—Except when used in this sec-
14 tion, the term this Act includes any regulation or
15 order issued by the Secretary under the authority of
16 this Act.

17 (18) UNITED STATES.—The term “United
18 States” means all of the States.

19 **SEC. 4. RESTRICTION ON IMPORTATION OR ENTRY.**

20 (a) IN GENERAL.—The Secretary may prohibit or re-
21 strict the—

22 (1) importation or entry of any animal, article,
23 or means of conveyance or use of any means of con-
24 veyance or facility if the Secretary determines that
25 the prohibition or restriction is necessary to prevent

1 the possibility of introduction into or dissemination
2 within the United States of any pest or disease of
3 livestock;

4 (2) importation or entry of any livestock if the
5 Secretary determines that the livestock is unfit to be
6 moved;

7 (3) further movement of any animal that has
8 strayed into the United States if the Secretary de-
9 termines that the prohibition or restriction is nec-
10 essary to prevent the possibility of introduction or
11 dissemination of any disease or pest of livestock
12 within the United States; and

13 (4) use of any means of conveyance in connec-
14 tion with the importation or entry of livestock if the
15 Secretary determines that the prohibition or restric-
16 tion is necessary because the means of conveyance
17 does not have accommodations for the safe and
18 proper movement and humane treatment of live-
19 stock.

20 (b) REGULATIONS.—The Secretary may issue regula-
21 tions requiring that any animal, article, or means of con-
22 veyance imported, entered, or moved in interstate
23 commerce—

1 (1) be subject to remedial measures the Sec-
2 retary determines to be necessary to prevent the
3 spread of any disease or pest of livestock; and

4 (2) with respect to animals, be raised or han-
5 dled under post-import quarantine conditions by or
6 under the supervision of the Secretary for the pur-
7 poses of determining whether the animal may be af-
8 fected by any disease or pest of livestock.

9 (c) DESTRUCTION OR REMOVAL.—

10 (1) IN GENERAL.—The Secretary may order the
11 destruction or the removal from the United States
12 of—

13 (A) any animal, article, or means of con-
14 veyance that has been imported but has not en-
15 tered the United States if the Secretary deter-
16 mines that destruction or removal from the
17 United States is necessary to prevent the possi-
18 bility of the introduction or dissemination of
19 any disease or pest of livestock into or within
20 the United States;

21 (B) any animal, article, means of convey-
22 ance, or progeny of any animal that has been
23 imported or entered in violation of this Act;

24 (C) any livestock imported, but not en-
25 tered, that is unfit to be moved; and

1 (D) any animal that has strayed into the
2 United States if the Secretary determines that
3 destruction or removal from the United States
4 is necessary to prevent the possibility of the in-
5 troduction or dissemination of any disease or
6 pest of livestock into or within the United
7 States.

8 (2) REQUIREMENTS OF OWNERS.—If an owner
9 or agent of the owner fails to comply with the Sec-
10 retary’s order, the Secretary may destroy or remove
11 from the United States the animal, article, or means
12 of conveyance as authorized under paragraph (1)
13 and recover from the owner or agent of the owner
14 the costs of any care, handling, and disposal in-
15 curred by the Secretary in connection with the de-
16 struction or removal.

17 **SEC. 5. EXPORTATION.**

18 (a) IN GENERAL.—The Secretary may prohibit or re-
19 strict the—

20 (1) exportation of any animal, article, or means
21 of conveyance if the Secretary determines that the
22 prohibition or restriction is necessary to prevent the
23 possibility of dissemination from or within the
24 United States of any disease or pest of livestock;

1 (2) exportation of any livestock if the Secretary
2 determines that the livestock is unfit to be moved;

3 (3) use of any means of conveyance or facility
4 in connection with the exportation of any animal or
5 article if the Secretary determines that the prohibi-
6 tion or restriction is necessary to prevent the possi-
7 bility of dissemination from or within the United
8 States of any disease or pest of livestock; and

9 (4) use of any means of conveyance in connec-
10 tion with the exportation of livestock if the Secretary
11 determines that the prohibition or restriction is nec-
12 essary because the means of conveyance does not
13 have accommodations for the safe and proper move-
14 ment and humane treatment of livestock.

15 (b) CERTIFICATION.—The Secretary may certify as
16 to the class, quality, quantity, condition, processing, han-
17 dling, or storage of any animal or article intended for ex-
18 port.

19 **SEC. 6. INTERSTATE MOVEMENT.**

20 (a) IN GENERAL.—The Secretary may prohibit or re-
21 strict the—

22 (1) movement in interstate commerce of any
23 animal, article, or means of conveyance if the Sec-
24 retary determines that the prohibition or restriction
25 is necessary to prevent the possibility of interstate

1 introduction or dissemination of any disease or pest
2 of livestock; and

3 (2) use of any means of conveyance or facility
4 in connection with the movement in interstate com-
5 merce of any animal or article if the Secretary deter-
6 mines that the prohibition or restriction is necessary
7 to prevent the possibility of interstate introduction
8 or dissemination of any disease or pest of livestock.

9 (b) MOVEMENT OF LIVESTOCK.—

10 (1) IN GENERAL.—No person shall confine al-
11 paca, bison, buffalo, camel, cattle, deer, donkey, elk,
12 goat, horse, llama, mule, reindeer, sheep, swine, or
13 such other animals that the Secretary may designate
14 in regulation, except embryos of such animals and
15 equines for slaughter, moved in interstate commerce
16 in any means of conveyance for a period longer than
17 twenty-eight consecutive hours without unloading
18 such animals in a humane manner into properly
19 equipped pens for rest, water, and feeding, for a pe-
20 riod of at least five consecutive hours, unless pre-
21 vented by storm or by other accidental or unavoid-
22 able causes which cannot be anticipated or avoided
23 by the exercise of due diligence and foresight.

24 (2) TIME OF CONFINEMENT.—When calculating
25 the time of confinement, the time consumed in load-

1 ing and unloading shall not be considered, but the
2 time during which such animals have been confined
3 on any connecting means of conveyance without un-
4 loading in accordance with paragraph (1) shall be
5 included.

6 (3) RESTING AND FEEDING.—

7 (A) IN GENERAL.—Such animals unloaded
8 under this subsection shall be properly rested,
9 fed, and watered either by the owner or shipper,
10 or in the case of a default in so doing, then by
11 the owner or operator of the means of convey-
12 ance transporting such animals, at the reason-
13 able expense of the owner or shipper of such
14 animals.

15 (B) LIENS.—The owner or operator of the
16 means of conveyance transporting such animals
17 shall in such case have a lien upon such ani-
18 mals for food, water, care, and custody fur-
19 nished, collectible at destination in the same
20 manner as the transportation charges are col-
21 lected, and shall not be liable for any detention
22 when the detention is of reasonable duration to
23 enable compliance with this subsection.

24 (C) OWNER OR SHIPPER PROVIDING FOOD
25 OR WATER.—Nothing in this subsection shall be

1 construed to prevent the owner or shipper from
2 furnishing food and water, if the owner or ship-
3 per so desires.

4 (4) APPLICATION OF REQUIREMENT.—The re-
5 quirements of this subsection do not apply if such
6 animals are carried in any means of conveyance in
7 which proper food, water, space, and opportunity to
8 rest have been provided, as determined by the Sec-
9 retary.

10 **SEC. 7. SEIZURE, QUARANTINE, AND DISPOSAL**

11 (a) IN GENERAL.—The Secretary may hold, seize,
12 quarantine, treat, apply other remedial measures to, de-
13 stroy or otherwise dispose of—

14 (1) any animal, article, or means of conveyance
15 that is moving or has been moved in interstate com-
16 merce or has been imported and that the Secretary
17 has reason to believe may carry, may have carried,
18 may have been affected with or exposed to any pest
19 or disease of livestock at the time of movement or
20 which is otherwise in violation of this Act;

21 (2) any animal, article, means of conveyance, or
22 progeny of any animal that is moving or is being
23 handled or has moved or has been handled in inter-
24 state commerce in violation of this Act;

1 (3) any animal, article, means of conveyance, or
2 progeny of any animal that has been imported and
3 is moving or is being handled or has moved or has
4 been handled in violation of this Act; and

5 (4) any animal, article, means of conveyance, or
6 progeny of any animal that the Secretary finds is
7 not being maintained or has not been maintained in
8 accordance with any post-import quarantine, post-
9 import condition, post-movement quarantine, or
10 post-movement condition in accordance with this
11 Act.

12 (b) EXTRAORDINARY EMERGENCY.—

13 (1) IN GENERAL.—If the Secretary determines
14 that an extraordinary emergency exists because of
15 the presence in the United States of a dangerous
16 disease or pest of livestock and that the presence of
17 the disease or pest threatens the livestock of the
18 United States, the Secretary may—

19 (A) quarantine any State, portion of a
20 State, or premises in which the Secretary
21 finds—

22 (i) any animal that is or may have
23 been affected with or exposed to the dis-
24 ease or pest; or

1 (ii) any article, facility, or means of
2 conveyance that the Secretary finds is or
3 was so related to an animal that was pos-
4 sibly affected or exposed to the disease or
5 pest or so related to the disease or pest as
6 to be a possible means of disseminating the
7 disease or pest;

8 (B) hold, seize, treat, apply other remedial
9 measures to, destroy, or otherwise dispose of—

10 (i) any animal that the Secretary has
11 reason to believe is or may have been af-
12 fected with or exposed to the disease or
13 pest, or

14 (ii) any article, facility, or means of
15 conveyance that the Secretary has reason
16 to believe is or was so related to an animal
17 that was possibly affected or exposed to
18 the disease or pest as to be a possible
19 means of disseminating the disease or pest;

20 (C) prohibit or restrict the movement with-
21 in a State of any animal or article, or means of
22 conveyance if the Secretary determines that the
23 prohibition or restriction is necessary to prevent
24 the possibility of dissemination of the disease or
25 pest; and

1 (D) prohibit or restrict the use of any arti-
2 cle, means of conveyance, or facility in connec-
3 tion with the movement within a State of any
4 animal or article if the Secretary determines
5 that the prohibition or restriction is necessary
6 to prevent the possibility of dissemination of the
7 disease or pest.

8 (2) LIMITATION.—The Secretary may take ac-
9 tion under this subsection upon finding, after review
10 and consultation with the Governor or other appro-
11 priate official of the State, that measures being
12 taken by the State are inadequate to control and
13 eradicate the disease or pest. Before any action is
14 taken in any State under this subsection, the Sec-
15 retary shall notify the Governor or other appropriate
16 official of the State, issue a public announcement,
17 and, except as provided in the following sentence,
18 file for publication in the Federal Register a state-
19 ment of the Secretary's findings, the action the Sec-
20 retary intends to take, and the reasons for the in-
21 tended action. If it is not possible to file for publica-
22 tion in the Federal Register prior to taking action,
23 the filing shall be made within a reasonable time,
24 not to exceed 10 business days, after commencement
25 of the action.

1 (c) DISPOSAL AND QUARANTINE REQUIREMENTS OF
2 OWNERS.—The Secretary, in writing, may order the
3 owner of any animal, article, facility, or means of convey-
4 ance referred to in subsections (a) or (b), or the agent
5 of the owner, to maintain in quarantine and to dispose
6 of the animal, article, facility, or means of conveyance in
7 any manner as the Secretary may direct. If the owner or
8 agent of the owner fails to comply with the Secretary’s
9 order, the Secretary may seize, quarantine, or dispose of
10 the animal, article, facility, or means of conveyance as au-
11 thorized by subsection (a) or (b) and recover from the
12 owner, or agent of the owner, the costs of any care, han-
13 dling, and disposal incurred by the Secretary in connection
14 with the seizure, quarantine, or disposal.

15 (d) COMPENSATION.—

16 (1) IN GENERAL.—The Secretary shall com-
17 pensate the owner of any animal, article, facility, or
18 means of conveyance which the Secretary requires to
19 be destroyed pursuant to this section.

20 (2) LEVEL.—

21 (A) IN GENERAL.—The compensation shall
22 be based upon the fair market value as deter-
23 mined by the Secretary of the animal, article,
24 facility, or means of conveyance.

1 (B) LIMITATION.—Compensation paid any
2 owner under this subsection shall not exceed the
3 difference between any compensation received
4 by the owner from a State or other source and
5 the fair market value of the animal, article, fa-
6 cility, or means of conveyance.

7 (C) REVIEWABILITY OF DETERMINA-
8 TION.—The determination by the Secretary of
9 the amount to be paid under this subsection
10 shall be final and shall not be subject to judicial
11 review.

12 (3) EXCEPTIONS.—No payment shall be made
13 by the Secretary under this subsection for—

14 (A) any animal, article, facility, or means
15 of conveyance that has been moved or handled
16 by the owner or the owner’s agent, in violation
17 of an agreement for the control and eradication
18 of diseases or pests or in violation of this Act;

19 (B) any progeny of any animal or article,
20 which animal or article has been moved or han-
21 dled by the owner of the animal or article, or
22 the owner’s agent, in violation of this Act;

23 (C) any animal, article, or means of con-
24 veyance that is refused entry under this Act; or

1 (D) any animal, article, facility, or means
2 of conveyance that becomes or has become af-
3 fected with or exposed to any disease or pest of
4 livestock because of a violation of an agreement
5 for the control and eradication of diseases or
6 pests or a violation of this Act.

7 **SEC. 8. INSPECTIONS, SEIZURES, AND WARRANTS.**

8 (a) **ROLE OF ATTORNEY GENERAL.**—The activities
9 authorized by this section shall be carried out consistent
10 with guidelines approved by the Attorney General.

11 (b) **WARRANTLESS INSPECTIONS.**—The Secretary
12 may stop and inspect, without a warrant, any person or
13 means of conveyance moving—

14 (1) into the United States to determine whether
15 the person or means of conveyance is carrying any
16 animal or article regulated under this Act or is mov-
17 ing subject to this Act;

18 (2) in interstate commerce upon probable cause
19 to believe that the person or means of conveyance is
20 carrying any animal or article, regulated under this
21 Act or is moving subject to this Act; and

22 (3) in intrastate commerce from any State, por-
23 tion of a State, or premises quarantined under sec-
24 tion 7(b) upon probable cause to believe that the
25 person or means of conveyance is carrying any ani-

1 mal or article regulated under section 7(b) or is
2 moving subject to section 7(b).

3 (c) INSPECTIONS WITH A WARRANT.—

4 (1) GENERAL AUTHORITY.—The Secretary may
5 enter, with a warrant, any premises in the United
6 States for the purpose of making inspections and
7 seizures under this Act.

8 (2) APPLICATION AND ISSUANCE OF A WAR-
9 RANT.—Upon proper oath or affirmation showing
10 probable cause to believe that there is on certain
11 premises any animal, article, facility, or means of
12 conveyance regulated under this Act, a United
13 States judge, a judge of a court of record in the
14 United States, or a United States magistrate judge
15 may, within the judge's or magistrate's jurisdiction,
16 issue a warrant for the entry upon the premises to
17 make any inspection or seizure under this Act. The
18 warrant may be applied for and executed by the Sec-
19 retary or any United States Marshal.

20 **SEC. 9. DETECTION, CONTROL, AND ERADICATION OF DIS-**
21 **EASES AND PESTS.**

22 (a) IN GENERAL.—The Secretary may carry out op-
23 erations and measures, including the drawing of blood and
24 diagnostic testing of animals, including animals at slaugh-

1 terhouses, stockyards, and other points of concentration
2 to—

3 (1) detect, control, and eradicate any disease or
4 pest of animals; and

5 (2) detect and control any conditions detri-
6 mental to production and marketing of livestock.

7 (b) COMPENSATION.—The Secretary may pay claims
8 growing out of the voluntary destruction of any animal
9 possibly affected with or exposed to any disease or pest.

10 **SEC. 10. VETERINARY ACCREDITATION PROGRAM.**

11 The Secretary may establish a veterinary accredita-
12 tion program consistent with the purposes of this Act, in-
13 cluding the establishment of standards of conduct for ac-
14 credited veterinarians.

15 **SEC. 11. COOPERATION.**

16 (a) IN GENERAL.—The Secretary may cooperate with
17 other Federal agencies, States or political subdivisions of
18 States, national governments, local governments of other
19 nations, domestic or international organizations, domestic
20 or international associations, and other persons to carry
21 out this Act.

22 (b) RESPONSIBILITY.—The person or other entity co-
23 operating with the Secretary shall be responsible for the
24 authority necessary to carry out the operations or meas-
25 ures on all lands and properties within the foreign country

1 or State, other than those owned or controlled by the
2 United States, and for other facilities and means as the
3 Secretary determines necessary.

4 (c) USE OF FUNDS.—In addition to the purposes
5 specified in this section, funds appropriated pursuant to
6 this section may be used for printing and binding without
7 regard to section 501 of title 44, United States Code, for
8 the employment of civilian nationals of countries involved,
9 and for the construction and operation of research labora-
10 tories, quarantine stations, and other buildings and facili-
11 ties for special purposes.

12 (d) SCREWORMS.—

13 (1) IN GENERAL.—The Secretary may inde-
14 pendently or in cooperation with national govern-
15 ments of other nations, international organizations,
16 or international associations produce and sell sterile
17 screwworms to any national government of other na-
18 tions, international organization, or international as-
19 sociation, if the Secretary determines that the live-
20 stock industry and related industries of the United
21 States will not be adversely affected by the produc-
22 tion and sale.

23 (2) PROCEEDS.—If the Secretary independently
24 produces and sells sterile screwworms in accordance
25 with paragraph (1), the proceeds of the sale shall be

1 deposited into the Treasury of the United States and
2 be credited to the appropriation from which the op-
3 erating expenses of the facility producing the sterile
4 screwworm have been paid. If the Secretary cooper-
5 ates to produce and sell sterile screwworms in ac-
6 cordance with paragraph (1), the proceeds of the
7 sale shall be divided between the United States and
8 the national government, international organization,
9 or international association with which the Secretary
10 cooperates, as determined by the Secretary. The
11 United States portion of the proceeds shall be depos-
12 ited into the Treasury of the United States and be
13 credited to the appropriation from which the oper-
14 ating expenses of the facility producing the sterile
15 screwworm have been paid.

16 (e) COOPERATION IN PROGRAM ADMINISTRATION.—
17 The Secretary may cooperate with State authorities or
18 other persons in the administration of regulations for the
19 improvement of livestock and their products.

20 (f) CONSULTATION WITH OTHER FEDERAL AGEN-
21 CIES.—The Secretary shall consult with the appropriate
22 Secretary or head of another Federal agency with respect
23 to any activity that is subject to regulation by that Federal
24 agency.

1 **SEC. 12. REIMBURSABLE AGREEMENTS.**

2 (a) **AUTHORITY TO ENTER INTO AGREEMENTS.—**

3 The Secretary may enter into reimbursable fee agreements
4 with persons for pre-clearance of animals or articles at lo-
5 cations outside the United States for movement into the
6 United States.

7 (b) **FUNDS COLLECTED FOR PRECLEARANCE.—**

8 Funds collected for pre-clearance shall be credited to ac-
9 counts which may be established by the Secretary for this
10 purpose and shall remain available until expended for the
11 pre-clearance activities without fiscal year limitation.

12 (c) **PAYMENT OF EMPLOYEES.—**

13 (1) **IN GENERAL.—**Notwithstanding any other
14 law, the Secretary may pay employees of the United
15 States Department of Agriculture performing serv-
16 ices relating to imports into and exports from the
17 United States, for all overtime, night, or holiday
18 work performed by them at rates of pay established
19 by the Secretary.

20 (2) **REIMBURSEMENT.—**

21 (A) **IN GENERAL.—**The Secretary may re-
22 quire persons for whom the services are per-
23 formed to reimburse the Secretary for any sums
24 of money paid by the Secretary for the services.

25 (B) **USE OF FUNDS.—**All funds collected
26 under this subsection shall be credited to the

1 account that incurs the costs and shall remain
2 available until expended without fiscal year lim-
3 itation.

4 (d) LATE PAYMENT PENALTIES.—

5 (1) COLLECTION.—Upon failure to reimburse
6 the Secretary in accordance with this section, the
7 Secretary may assess a late payment penalty, and
8 the overdue funds shall accrue interest, as required
9 by section 3717 of title 31, United States Code.

10 (2) USE OF FUNDS.—Any late payment penalty
11 and any accrued interest shall be credited to the ac-
12 count that incurs the costs and shall remain avail-
13 able until expended without fiscal year limitation.

14 **SEC. 13. BUILDINGS, LAND, PEOPLE, AGREEMENTS, AND**
15 **CLAIMS.**

16 (a) IN GENERAL.—The Secretary may acquire and
17 maintain all real or personal property for special purposes
18 and employ any persons, make grants, and enter into any
19 contracts, cooperative agreements, memoranda of under-
20 standing, or other agreements necessary for carrying out
21 this Act.

22 (b) TORT CLAIMS.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), the Secretary may pay tort claims, in the
25 manner authorized in the first paragraph of section

1 2672 of title 28, United States Code, when the
2 claims arise outside the United States in connection
3 with activities authorized under this Act.

4 (2) REQUIREMENTS OF A CLAIM.—A claim may
5 not be allowed under this subsection unless it is pre-
6 sented in writing to the Secretary within two years
7 after the claim accrues.

8 **SEC. 14. FIREARMS.**

9 Any employee of the United States Department of
10 Agriculture designated by the Secretary and the Attorney
11 General of the United States may carry a firearm and use
12 a firearm when necessary for self-protection, in accordance
13 with regulations issued by the Secretary and the Attorney
14 General of the United States, while the employee is en-
15 gaged in the performance of the employee's official duties
16 to carry out this Act.

17 **SEC. 15. PENALTIES FOR VIOLATION.**

18 (a) CRIMINAL PENALTIES.—Any person who know-
19 ingly violates this Act, or who knowingly forges, counter-
20 feits, or, without authority from the Secretary, uses, al-
21 ters, defaces, or destroys any certificate, permit, or other
22 document provided for in this Act shall be guilty of a mis-
23 demeanor, and, upon conviction, shall be fined in accord-
24 ance with the provisions of title 18, United States Code,

1 imprisoned for a period not exceeding one year, or fined
2 and imprisoned.

3 (b) CIVIL PENALTY.—

4 (1) IN GENERAL.—Any person who violates this
5 Act, or who forges, counterfeits, or, without author-
6 ity from the Secretary, uses, alters, defaces, or de-
7 stroyes any certificate, permit, or other document
8 provided for in this Act may, after notice and oppor-
9 tunity for a hearing on the record, be assessed a
10 civil penalty by the Secretary—

11 (A) \$50,000 in the case of any individual
12 (except that the civil penalty may not exceed
13 \$1,000 in the case of an initial violation of this
14 Act by an individual moving regulated articles
15 not for monetary gain), \$250,000 in the case of
16 any other person for each violation, and
17 \$500,000 for all violations adjudicated in a sin-
18 gle proceeding; or

19 (B) twice the gross gain or gross loss for
20 any violation or forgery, counterfeiting, or un-
21 authorized use, defacing or destruction of a cer-
22 tificate, permit, or other document provided for
23 in this Act that results in the person deriving
24 pecuniary gain or causing pecuniary loss to an-
25 other.

1 (2) FACTORS IN DETERMINING CIVIL PEN-
2 ALTY.—In determining the amount of a civil penalty,
3 the Secretary shall take into account the nature, cir-
4 cumstance, extent, and gravity of the violation or
5 violations and the Secretary may consider, with re-
6 spect to the violator, ability to pay, effect on ability
7 to continue to do business, any history of prior viola-
8 tions, the degree of culpability, and any other factors
9 the Secretary deems appropriate.

10 (3) SETTLEMENT OF CIVIL PENALTIES.—The
11 Secretary may compromise, modify, or remit, with or
12 without conditions, any civil penalty that may be as-
13 sessed under this subsection.

14 (4) FINALITY OF ORDERS.—The order of the
15 Secretary assessing a civil penalty shall be treated as
16 a final order reviewable under chapter 158 of title
17 28, United States Code. The validity of the Sec-
18 retary's order may not be reviewed in an action to
19 collect the civil penalty. Any civil penalty not paid in
20 full when due under an order assessing the civil pen-
21 alty shall thereafter accrue interest until paid at the
22 rate of interest applicable to civil judgments of the
23 courts of the United States.

24 (c) SUSPENSION OR REVOCATION OF ACCREDITA-
25 TION.—

1 (1) IN GENERAL.—The Secretary may, after
2 notice and opportunity for a hearing on the record,
3 suspend or revoke the accreditation of any veteri-
4 narian accredited under this Act who violates this
5 Act. The order of the Secretary suspending or revok-
6 ing accreditation shall be treated as a final order re-
7 viewable under chapter 158 of title 28, United
8 States Code.

9 (2) SUMMARY SUSPENSION.—

10 (A) IN GENERAL.—Notwithstanding para-
11 graph (1), the Secretary may summarily sus-
12 pend the accreditation of a veterinarian, whom
13 the Secretary has reason to believe has violated
14 a provision of this Act, to protect the public
15 health, interest, or safety.

16 (B) HEARING.—The Secretary shall pro-
17 vide the accredited veterinarian with a subse-
18 quent notice and an opportunity for a prompt
19 post-suspension hearing on the record.

20 (d) LIABILITY FOR ACTS OF AN AGENT.—When con-
21 struing and enforcing this Act, the act, omission, or failure
22 of any officer, agent, or person acting for or employed by
23 any other person within the scope of his or her employ-
24 ment or office, shall be deemed also to be the act, omis-
25 sion, or failure of the other person.

1 (e) GUIDELINES FOR CIVIL PENALTIES.—The Sec-
2 retary shall coordinate with the Attorney General to estab-
3 lish guidelines to determine under what circumstances the
4 Secretary may issue a civil penalty or suitable notice of
5 warning in lieu of prosecution by the Attorney General of
6 a violation of this Act.

7 **SEC. 16. ENFORCEMENT.**

8 (a) COLLECTION OF INFORMATION.—

9 (1) IN GENERAL.—The Secretary may gather
10 and compile information and conduct any investiga-
11 tions the Secretary considers necessary for the ad-
12 ministration and enforcement of this Act.

13 (2) SUBPOENAS.—

14 (A) IN GENERAL.—The Secretary shall
15 have power to subpoena the attendance and tes-
16 timony of any witness, and the production of all
17 documentary evidence relating to the adminis-
18 tration or enforcement of this Act or any mat-
19 ter under investigation in connection with this
20 Act.

21 (B) LOCATION OF PRODUCTION.—The at-
22 tendance of any witness and production of doc-
23 umentary evidence may be required from any
24 place in the United States at any designated
25 place of hearing.

1 (C) ENFORCEMENT OF SUBPOENA.—In
2 case of disobedience to a subpoena by any per-
3 son, the Secretary may request the Attorney
4 General to invoke the aid of any court of the
5 United States within the jurisdiction in which
6 the investigation is conducted, or where the per-
7 son resides, is found, transacts business, is li-
8 censed to do business, or is incorporated in re-
9 quiring the attendance and testimony of any
10 witness and the production of documentary evi-
11 dence. In case of a refusal to obey a subpoena
12 issued to any person, a court may order the
13 person to appear before the Secretary and give
14 evidence concerning the matter in question or
15 to produce documentary evidence. Any failure
16 to obey the court's order may be punished by
17 the court as contempt of the court.

18 (D) COMPENSATION.—Witnesses sum-
19 moned by the Secretary shall be paid the same
20 fees and mileage that are paid to witnesses in
21 courts of the United States, and witnesses
22 whose depositions are taken and the persons
23 taking the depositions shall be entitled to the
24 same fees that are paid for similar services in
25 the courts of the United States.

1 (E) PROCEDURES.—The Secretary shall
2 publish procedures for the issuance of sub-
3 poenas under this section. Such procedures
4 shall include a requirement that subpoenas be
5 reviewed for legal sufficiency and signed by the
6 Secretary. If the authority to sign a subpoena
7 is delegated, the agency receiving the delegation
8 shall seek review for legal sufficiency outside
9 that agency.

10 (F) SCOPE OF SUBPOENA.—Subpoenas for
11 witnesses to attend court in any judicial district
12 or testify or produce evidence at an administra-
13 tive hearing in any judicial district in any ac-
14 tion or proceeding arising under this Act may
15 run to any other judicial district.

16 (b) AUTHORITY OF THE ATTORNEY GENERAL.—The
17 Attorney General may—

18 (1) prosecute, in the name of the United States,
19 all criminal violations of this Act that are referred
20 to the Attorney General by the Secretary or are
21 brought to the notice of the Attorney General by any
22 person;

23 (2) bring an action to enjoin the violation of or
24 to compel compliance with this Act, or to enjoin any
25 interference by any person with the Secretary in car-

1 rying out this Act, whenever the Secretary has rea-
2 son to believe that the person has violated, or is
3 about to violate this Act, or has interfered, or is
4 about to interfere, with the Secretary; and

5 (3) bring an action for the recovery of any un-
6 paid civil penalty, funds under reimbursable agree-
7 ments, late payment penalty, or interest assessed
8 under this Act.

9 (c) COURT JURISDICTION.—

10 (1) IN GENERAL.—The United States district
11 courts, the District Court of Guam, the District
12 Court of the Virgin Islands, the highest court of
13 American Samoa, and the United States courts of
14 the other territories and possessions are vested with
15 jurisdiction in all cases arising under this Act. Any
16 action arising under this Act may be brought, and
17 process may be served in the judicial district where
18 a violation or interference occurred or is about to
19 occur, or where the person charged with the viola-
20 tion, interference, impending violation, impending in-
21 terference, or failure to pay resides, is found, trans-
22 acts business, is licensed to do business, or is incor-
23 porated.

24 (2) EXCEPTION.—Paragraph (1) does not apply
25 to subsections (b) and (c) of section 15.

1 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS AND**
2 **TRANSFER AUTHORITY.**

3 (a) AUTHORIZATION OF APPROPRIATION.—There are
4 authorized to be appropriated such sums of money as may
5 be necessary to carry out this Act.

6 (b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—
7 The Secretary may, in connection with an emergency in
8 which a disease or pest of livestock threatens any segment
9 of the agricultural production of the United States, trans-
10 fer from other appropriations or funds available to the
11 agencies or corporations of the Department of Agriculture
12 any sum of money as the Secretary may deem necessary
13 to be available in the emergency for the arrest, control,
14 eradication, and prevention of the spread of the disease
15 or pest of livestock and for related expenses. Any funds
16 transferred under this section shall remain available for
17 such purposes without fiscal year limitation.

18 **SEC. 18. REGULATIONS AND ORDERS.**

19 The Secretary may issue any regulations or orders
20 as the Secretary deems necessary to carry out this Act.

21 **SEC. 19. PREEMPTION.**

22 (a) REGULATION OF FOREIGN COMMERCE.—No
23 State or political subdivision of a State may regulate the
24 movement in foreign commerce of any animal, article, or
25 means of conveyance in order to control a disease or pest
26 of livestock.

1 (b) REGULATION OF INTERSTATE COMMERCE.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), no State or political subdivision of a
4 State may regulate the movement in interstate com-
5 merce of any animal, article, or means of conveyance
6 in order to control a disease or pest of livestock.

7 (2) EXCEPTIONS.—

8 (A) REGULATIONS CONSISTENT WITH FED-
9 ERAL REGULATIONS.—A State or a political
10 subdivision of a State may impose a prohibition
11 or restriction upon the movement in interstate
12 commerce of an animal, article, or means of
13 conveyance that is consistent with, and does not
14 exceed, regulations or orders issued by the Sec-
15 retary.

16 (B) SPECIAL NEED.—A State or political
17 subdivision of a State may impose a prohibition
18 or restriction upon the movement in interstate
19 commerce of an animal, article, or means of
20 conveyance that is in addition to a prohibition
21 or restriction imposed by the Secretary, if the
22 State or political subdivision of a State dem-
23 onstrates to the Secretary and the Secretary
24 finds that there is a special need for an addi-

1 tional prohibition or restriction based on sound
2 scientific data or a thorough risk assessment.

3 **SEC. 20. SEVERABILITY.**

4 If any provision of this Act or application of any pro-
5 vision of this Act to any person or circumstance is held
6 invalid, the remainder of this Act and the application of
7 the provision to other persons and circumstances shall not
8 be affected by the invalidity.

9 **SEC. 21. REPEALS AND CONFORMING AMENDMENTS.**

10 (a) REPEALS.—The following provisions of law are
11 hereby repealed:

12 (1) Section 101(b) of the Department of Agri-
13 culture Organic Act of 1944 (7 U.S.C. 429).

14 (2) The Act of August 28, 1950 (Chap. 815, 64
15 Stat. 561, 7 U.S.C. 2260), An Act to enable the
16 Secretary of Agriculture to furnish, upon a reim-
17 bursable basis, certain inspection services involving
18 overtime work.

19 (3) Section 919 of the Federal Agriculture Im-
20 provement and Reform Act of 1996 (7 U.S.C.
21 2260a).

22 (4) Section 1 of the Act of October 14, 1982
23 (7 U.S.C. 2274), An Act to authorize certain em-
24 ployees of the United States Department of Agri-
25 culture charged with the enforcement of animal

1 quarantine laws to carry firearms for self-protection
2 and to improve the quality of table grapes for mar-
3 keting in the United States.

4 (5) Section 306 of the Tariff Act of 1930 (19
5 U.S.C. 1306).

6 (6) Sections 6–8 and 10 of the Act of August
7 30, 1890 (21 U.S.C. 102–105), An Act providing for
8 an inspection of meats for exportation, prohibiting
9 the importation of adulterated articles of food or
10 drink, and authorizing the President to make procla-
11 mation in certain cases, and for other purposes.

12 (7) The Act of February 2, 1903 (21 U.S.C.
13 111, 120–122), An Act to enable the Secretary of
14 Agriculture to more effectively suppress and prevent
15 the spread of contagious and infectious diseases of
16 livestock, and for other purposes.

17 (8) Sections 2–9, 11, and 13 of the Act of May
18 29, 1884 (Chap. 60, 23 Stat. 32, 21 U.S.C. 112,
19 113, 114, 114a, 114a–1, 115–120, and 130).

20 (9) Sections 1, 2, 3, and 5 of the Act of Feb-
21 ruary 28, 1947 (21 U.S.C. 114b, 114c, 114d, and
22 114d–1), An Act to authorize the Secretary of Agri-
23 culture to cooperate with the Government of Mexico
24 in the control and elimination of foot and mouth dis-
25 ease and rinderpest.

1 (10) The Act of June 16, 1948 (21 U.S.C.
2 114e and 114f), An Act authorizing additional re-
3 search and investigation into problems and methods
4 relating to the eradication of cattle grubs, and for
5 other purposes.

6 (11) The Act of September 6, 1961 (21 U.S.C.
7 114g–114h), An Act to provide for a national hog
8 cholera eradication program.

9 (12) Section 2506 of the Food, Agriculture,
10 Conservation, and Trade Act of 1990 (21 U.S.C.
11 114i).

12 (13) The third and fourth provisos of the fourth
13 paragraph under the heading Bureau of Animal In-
14 dustry of the Act of May 31, 1920 (21 U.S.C. 116),
15 An Act making appropriations for the Department
16 of Agriculture for fiscal year ending June 30,
17 1921”.

18 (14) Sections 1–4 and 6 of the Act of March
19 3, 1905 (21 U.S.C. 123–127).

20 (15) The first proviso under the heading Gen-
21 eral Expenses, Bureau of Animal Industry in the
22 Act of June 30, 1914 (21 U.S.C. 128), An Act mak-
23 ing appropriations for the Department of Agri-
24 culture for the fiscal year ending June thirtieth,
25 nineteen hundred and fifteen.

1 (16) The fourth proviso in the paragraph under
2 the heading Salaries and Expenses, Animal and
3 Plant Health Inspection Service of the Department
4 of Agriculture, Rural Development, Food and Drug
5 Administration, and Related Agencies Appropriation
6 Act, 1999 (21 U.S.C. 129).

7 (17) The third paragraph under the heading
8 Miscellaneous of the Act of May 26, 1910 (21
9 U.S.C. 131), An Act making appropriations for the
10 Department of Agriculture for the fiscal year ending
11 June thirtieth, nineteen hundred and eleven.

12 (18) Sections 1–6 and 11–13 of the Act of July
13 2, 1962 (21 U.S.C. 134–134h), An Act to provide
14 greater protection against the introduction and dis-
15 semination of diseases of livestock and poultry, and
16 for other purposes.

17 (19) The Act of May 6, 1970 (Public Law 91–
18 239, 84 Stat. 202, 21 U.S.C. 135–135b).

19 (20) Sections 12 through 14 of the Federal
20 Meat Inspection Act (21 U.S.C. 612–614).

21 (21) Sections 3901 and 3902 of title 46, United
22 States Code.

23 (22) Section 80502 of title 49, United States
24 Code.

1 (23) The first section of Public Law 97–46 (7
2 U.S.C. 147b).

3 (b) CONFORMING AMENDMENT.—(1) Section 18 of
4 the Federal Meat Inspection Act (21 U.S.C. 618) is
5 amended by striking of the cattle and all that follows
6 through as herein described and inserting the carcasses
7 and products of cattle, sheep, swine, goats, horses, mules,
8 and other equines.

9 (2) Section 2509(c) of the Food, Agriculture, Con-
10 servation, and Trade Act of 1990 (21 U.S.C. 136a(c)) is
11 amended by adding after paragraph (1) the following:

12 “(2) The Secretary of Agriculture is authorized
13 to prescribe and collect fees to recover the costs of
14 carrying out the provisions of the Animal Health
15 Protection Act which relate to veterinary
16 diagnostics.”.

○