

108TH CONGRESS
2D SESSION

S. 2352

To prevent the slaughter of horses in and from the United States for human consumption by prohibiting the slaughter of horses for human consumption and by prohibiting the trade and transport of horseflesh and live horses intended for human consumption, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2004

Mr. ENSIGN (for himself, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. INOUE, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To prevent the slaughter of horses in and from the United States for human consumption by prohibiting the slaughter of horses for human consumption and by prohibiting the trade and transport of horseflesh and live horses intended for human consumption, and for other purposes.

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.**

4 This Act may be cited as the “American Horse
5 Slaughter Prevention Act of 2004”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

1 (1) to prohibit the slaughter of horses for
2 human consumption;

3 (2) to prohibit the sale, possession, and trade of
4 horseflesh for human consumption; and

5 (3) to prohibit the sale, possession, and trade of
6 live horses for slaughter for human consumption.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) EUTHANASIA.—The term “euthanasia”
10 means to kill an animal humanely by means that im-
11 mediately render the animal unconscious, with this
12 state remaining until the swift death of the animal.

13 (2) EXPORT.—The term “export” means to
14 take from any place subject to the jurisdiction of the
15 United States to a place not subject to that jurisdic-
16 tion, whether or not the taking constitutes an expor-
17 tation within the meaning of the customs laws of the
18 United States.

19 (3) HORSE.—The term “horse” means all mem-
20 bers of the equid family, including horses, ponies,
21 donkeys, mules, asses, and burros.

22 (4) HORSEFLESH.—The term “horseflesh”
23 means the flesh of a dead horse, including the
24 viscera, skin, hair, hide, hooves, and bones of the
25 horse.

1 (5) HUMAN CONSUMPTION.—The term “human
2 consumption” means ingestion by people as a source
3 of food.

4 (6) IMPORT.—The term “import” means to
5 bring into any place subject to the jurisdiction of the
6 United States from a place not subject to that juris-
7 diction, whether or not the bringing constitutes an
8 importation within the meaning of the customs laws
9 of the United States.

10 (7) PERSON.—The term “person” means—

11 (A) an individual, corporation, partnership,
12 trust, association, or other private entity;

13 (B) an officer, employee, agent, depart-
14 ment, or instrumentality of—

15 (i) the Federal Government; or

16 (ii) any State, municipality, or polit-
17 ical subdivision of a State; or

18 (C) any other entity subject to the jurisdic-
19 tion of the United States.

20 (8) SECRETARY.—The term “Secretary” means
21 the Secretary of Agriculture.

22 (9) SLAUGHTER.—The term “slaughter” means
23 the commercial slaughter of 1 or more horses with
24 an intent to sell, barter, or trade horseflesh for
25 human consumption.

1 (10) STATE.—The term “State” means—

2 (A) each of the several States of the
3 United States;

4 (B) the District of Columbia;

5 (C) the Commonwealth of Puerto Rico;

6 (D) Guam;

7 (E) American Samoa;

8 (F) the Commonwealth of the Northern
9 Mariana Islands;

10 (G) the Federated States of Micronesia;

11 (H) the Republic of the Marshall Islands;

12 (I) the Republic of Palau;

13 (J) the United States Virgin Islands; and

14 (K) any other territory or possession of the
15 United States.

16 (11) TRANSPORT.—The term “transport”
17 means—

18 (A) to move by any means; or

19 (B) to receive or load onto a vehicle for the
20 purpose of movement.

21 (12) UNITED STATES.—The term “United
22 States” means the customs territory of the United
23 States, as defined in general note 2 of the Har-
24 monized Tariff Schedule of the United States.

1 **SEC. 4. PROHIBITED ACTS.**

2 A person shall not—

3 (1) slaughter a horse for human consumption;

4 (2) import into, or export from, the United
5 States—

6 (A) horseflesh for human consumption; or

7 (B) live horses intended for slaughter for
8 human consumption;

9 (3) sell or barter, offer to sell or barter, pur-
10 chase, possess, transport, deliver, or receive—

11 (A) horseflesh for human consumption; or

12 (B) live horses intended for slaughter for
13 human consumption; or

14 (4) solicit, request, or otherwise knowingly
15 cause any act prohibited under paragraph (1), (2),
16 or (3).

17 **SEC. 5. PENALTIES.**

18 (a) CRIMINAL PENALTIES.—A person that violates
19 section 4 shall be fined under title 18, United States Code,
20 imprisoned for not more than 1 year, or both.

21 (b) CIVIL PENALTIES.—

22 (1) IN GENERAL.—In addition to any other civil
23 or criminal penalty that may be imposed under title
24 18, United States Code, or any other provision of
25 law, if a person violates section 4, the Secretary
26 shall—

1 (A) assess a civil penalty against the per-
2 son of not less than \$2,500 but not more than
3 \$5,000; and

4 (B) confiscate all horses in the physical or
5 legal possession of the person at the time of ar-
6 rest, if the horses are intended for slaughter.

7 (2) REMISSION OR MITIGATION OF PEN-
8 ALTIES.—For good cause shown, the Secretary may
9 remit or mitigate any civil penalty under this Act.

10 (3) DEBARMENT.—The Secretary shall prohibit
11 a person from importing, exporting, transporting,
12 trading, or selling horses in the United States, if the
13 Secretary finds that the person has engaged in a
14 pattern or practice of actions that have resulted in
15 a final judicial or administrative determination with
16 respect to the assessment of criminal or civil pen-
17 alties for violations of this Act.

18 (c) NOTICE; HEARING.—No monetary penalty may
19 be assessed against a person for a violation under this sec-
20 tion unless the person is given notice and opportunity for
21 a hearing with respect to the violation in accordance with
22 section 554 of title 5, United States Code.

23 (d) SEPARATE OFFENSES.—

1 (1) LIVE HORSE.—Each live horse transported,
2 traded, slaughtered, or possessed in violation of this
3 Act shall constitute a separate offense.

4 (2) HORSEFLESH.—Each 400 hundred pounds
5 or less of horseflesh transported, traded, slaugh-
6 tered, or possessed in violation of this Act shall con-
7 stitute a separate offense.

8 **SEC. 6. ENFORCEMENT.**

9 (a) IN GENERAL.—The Secretary shall enforce this
10 Act directly or by agreement with any other Federal,
11 State, or local agency.

12 (b) ADMINISTRATION.—Any person authorized by the
13 Secretary to enforce this Act—

14 (1) may execute any warrant or process issued
15 by any officer or court of competent jurisdiction to
16 enforce this Act; and

17 (2) if so authorized, may, in addition to any
18 other authority conferred by law—

19 (A) with or without warrant or other proc-
20 ess, arrest any person committing (in the pres-
21 ence or view of the authorized person) a viola-
22 tion of this Act (including a regulation promul-
23 gated under this Act);

24 (B) seize the cargo of any truck or other
25 conveyance used or employed to violate this Act

(including a regulation promulgated under this Act) or that reasonably appears to have been so used or employed; and

(C) seize, whenever and wherever found, all horses and horseflesh possessed in violation of this Act (including a regulation promulgated under this Act) and dispose of the horses and horseflesh, in accordance with this section (including regulations promulgated under this Act).

(c) PLACEMENT OF CONFISCATED HORSES.—

(1) TEMPORARY PLACEMENT.—After confiscation of a live horse pursuant to this Act, an arresting authority shall work with animal welfare societies and animal control departments—

(A) to ensure the temporary placement of the horse with an animal rescue facility that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code, while the person charged with violating this Act is prosecuted; or

(B) if placement at such a facility is not practicable, to temporarily place the horse with—

- 1 (i) a facility that has as its primary
 2 purpose the humane treatment of animals;
 3 or
 4 (ii) another suitable location, as deter-
 5 mined by the Secretary or arresting au-
 6 thority.

7 (2) BONDS.—

8 (A) IN GENERAL.—The owner of a horse
 9 confiscated under this Act may prevent perma-
 10 nent placement of the horse by the facility that
 11 has temporary custody of the horse by posting
 12 a bond with a court of competent jurisdiction in
 13 an amount the court determines is sufficient to
 14 provide for the necessary care and keeping of
 15 the horse for at least 60 days, including the day
 16 on which the horse was taken into custody.

17 (B) TIMING.—The bond shall be filed with
 18 the court not later than 10 days after the horse
 19 is confiscated.

20 (C) LACK OF BOND.—If a bond is not
 21 posted in accordance with this paragraph, the
 22 custodial facility shall determine permanent
 23 placement of the horse in accordance with rea-
 24 sonable practices for the humane treatment of
 25 animals.

1 (D) TREATMENT FOLLOWING BOND PE-
 2 RIOD.—

3 (i) NEW BOND.—If the animal has
 4 not yet been returned to the owner at the
 5 end of the time for which expenses are cov-
 6 ered by the bond and if the owner desires
 7 to prevent permanent placement of the ani-
 8 mal by the custodial facility, the owner
 9 shall post a new bond with the court within
 10 10 days after expiration of the prior bond.

11 (ii) PERMANENT PLACEMENT.—If a
 12 new bond is not posted in accordance with
 13 clause (i), the custodial facility shall deter-
 14 mine permanent placement of the horse in
 15 accordance with reasonable practices for
 16 the humane treatment of animals.

17 (E) COSTS FOR PROVIDING CARE FOR
 18 HORSE DEDUCTED FROM BOND.—If a bond is
 19 posted in accordance with this paragraph, the
 20 custodial facility may draw from the bond the
 21 actual reasonable costs incurred by the facility
 22 in providing the necessary care and keeping of
 23 the confiscated horse from the date of the ini-
 24 tial confiscation of the horse to the date of final

1 disposition of the horse in the criminal action
2 charging a violation of this Act.

3 (3) PERMANENT PLACEMENT.—Except as pro-
4 vided in subsection (d), any horse confiscated pursu-
5 ant to this Act and not returned to the owner after
6 confiscation shall be placed permanently with an ani-
7 mal rescue facility or other suitable facility as de-
8 scribed in this section on—

9 (A) the conviction under this Act of the
10 owner of the horse;

11 (B) the surrender of the horse by the
12 owner;

13 (C) the failure of the owner of the horse to
14 post a bond as required in accordance with
15 paragraph (2); or

16 (D) the inability of the Secretary to iden-
17 tify the owner.

18 (d) EUTHANASIA OF HORSES.—

19 (1) EMERGENCY CIRCUMSTANCES.—The Sec-
20 retary or any law enforcement authority charged
21 with enforcing this Act may order or perform the
22 immediate euthanasia of any horse in the field if the
23 horse is injured beyond recovery and suffering irre-
24 versibly.

1 (2) HORSES BEYOND RECOVERY AND
 2 UNPLACEABLE.—The Secretary or any law enforce-
 3 ment authority charged with enforcing this Act may
 4 order a licensed veterinarian to euthanize any con-
 5 fiscated horse if—

6 (A) the confiscated horse is injured, dis-
 7 abled, or diseased beyond recovery; or

8 (B) placement at an animal rescue facility
 9 or other suitable facility, as described in this
 10 section, is not practicable within 90 days of any
 11 circumstance described in subsection (c)(3).

12 (3) METHOD.—In euthanizing a horse under
 13 paragraph (2), the Secretary, law enforcement au-
 14 thority charged with enforcing this Act, or a licensed
 15 veterinarian conducting the euthanasia shall use a
 16 method of euthanasia rated “Acceptable” for horses
 17 in the most recent Report of the American Veteri-
 18 nary Medical Association’s Panel on Euthanasia.

19 (e) FUNDING OF ANIMAL RESCUE FACILITIES.—

20 (1) GRANTS.—Subject to the availability of ap-
 21 propriated funds, the Secretary shall make grants to
 22 animal rescue facilities described in subsection
 23 (c)(1)(A) that have given adequate assurances to the
 24 Secretary that the facilities are willing to accept
 25 horses under this Act.

1 (2) PENALTIES, FINES, AND FORFEITED PROP-
 2 ERTY.—Amounts received as penalties or fines under
 3 this Act, and property forfeited under this Act, shall
 4 be used for the care of any live horses seized from
 5 violators of this Act and taken into the possession
 6 by the United States or placed with an animal res-
 7 cue facility or other suitable location.

8 **SEC. 7. REPORTS.**

9 Not later than 2 years after the date of the enact-
 10 ment of this Act, and on an annual basis thereafter, the
 11 Secretary shall submit to Congress a report on—

12 (1) actions taken by the Secretary and other
 13 Federal agencies to carry out this Act; and

14 (2) the adequacy of resources to carry out this
 15 Act.

16 **SEC. 8. EXEMPTIONS.**

17 (a) IN GENERAL.—Subject to section 4 and sub-
 18 section (b), nothing in this Act affects the regulation of
 19 horses by a State.

20 (b) LAW ENFORCEMENT AUTHORITIES.—

21 (1) IN GENERAL.—A State or local law enforce-
 22 ment or arresting authority may take such actions
 23 as are necessary under section 6 to enforce this Act.

24 (2) ENFORCEMENT.—A person described in sec-
 25 tion 3(7)(B) may engage in activities described in

1 paragraphs (2), (3), and (4) of section 4 solely for
2 the purposes of enforcing this Act.

3 **SEC. 9. REGULATIONS.**

4 The Secretary shall promulgate such regulations as
5 are necessary to carry out this Act.

6 **SEC. 10. EFFECTIVE DATE.**

7 This Act takes effect on the date that is 1 year after
8 the date of the enactment of this Act.

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