

PREVENTION OF EQUINE CRUELTY ACT OF 2008

SEPTEMBER 28, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 6598]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 6598) to amend title 18, United States Code, to prohibit certain conduct relating to the use of horses for human consumption, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Prevention of Equine Cruelty Act of 2008”.

SEC. 2. SLAUGHTER OF HORSES FOR HUMAN CONSUMPTION.

(a) IN GENERAL.—Chapter 3 of title 18, United States Code, is amended by adding at the end the following:

“§ 50. Slaughter of horses for human consumption

“(a) Except as provided in subsection (b), whoever knowingly—

“(1) possesses, ships, transports, purchases, sells, delivers, or receives, in or affecting interstate commerce or foreign commerce, any horse with the intent that it is to be slaughtered for human consumption; or

“(2) possesses, ships, transports, purchases, sells, delivers, or receives, in or affecting interstate commerce or foreign commerce, any horse flesh or carcass or part of a carcass, with the intent that it is to be used for human consumption;

shall be fined under this title or imprisoned not more than three years or both.

“(b) If—

“(1) the defendant engages in conduct that would otherwise constitute an offense under subsection (a);

“(2) the defendant has no prior conviction under this section; and

“(3) the conduct involves less than five horses or less than 2000 pounds of horse flesh or carcass or part of a carcass;

the defendant shall, instead of being punished under that subsection, be fined under this title or imprisoned not more than one year, or both.

“(c) The Attorney General, in consultation with the Secretary of Agriculture, shall provide for the humane placement or other humane disposition of any horse seized in connection with an offense under this section.

“(d) As used in this section, the term ‘horse’ means any member of the family Equidae.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 18, United States Code, is amended by adding at the end the following new item:

“50. Slaughter of horses for human consumption.”

PURPOSE AND SUMMARY

This bill makes it illegal to possess, ship, transport, purchase, sell, deliver, or receive any horse with the intent that it be slaughtered for human consumption. The bill also makes it illegal to engage in the above conduct with respect to horse flesh or carcass with the intent that it be used for human consumption. The crime is punishable as either a misdemeanor or felony, depending on the circumstances of the offense.

BACKGROUND AND NEED FOR THE LEGISLATION

BACKGROUND

In 2007, the last three horse slaughter houses¹ in the United States were closed as a result of State laws. In January 2007, the Fifth Circuit upheld a 1949 Texas State law that had prohibited the possession, sale, or transfer of horsemeat for human consumption. *Empacadora de Carnes de Fresnillo, S.A. de C.V. v. Durry*, 476 F.3d 326 (5th Cir. 2007). As a result of this ruling, the two remaining horse slaughter houses in Texas were closed. The State of

¹Horse “slaughter” is a term used to refer to the process of killing a horse for the purpose of human consumption. The horses are alive when they arrive at the slaughterhouse. Horse “rendering” plants accept deceased horses, which are then processed for purposes other than human consumption. Horse rendering plants are legal and are not at issue here.

Illinois, on May 24, 2007, passed the Illinois Horse Meat Act, making it unlawful to slaughter a horse knowing that the meat will be used for human consumption. The Seventh Circuit upheld the legality of this State law, and the last remaining horse slaughter plant in the United States closed its doors. *Cavel International, Inc. v. Madigan*, 500 F.3d 551 (7th Cir. 2007).

In spite of these plant closures, the practice of horse slaughter for human consumption has not gone away. Horses from the United States are now being shipped to plants in Mexico or Canada, where horses are slaughtered for human consumption. The horse meat is then shipped to Europe and Asia, where horse meat is considered a delicacy. The Humane Society of the United States reports that in 2007, over 100,000 horses were slaughtered for human consumption or exported for slaughter for human consumption. Of this total, about 78,000 horses were exported to Canada or Mexico for slaughter for human consumption.²

The process of slaughtering horses generally starts with the purchase of horses at a horse auction by a bidder commonly referred to as a “killer-buyer,” who is in the business of buying horses for transport to the slaughterhouses in Mexico and Canada. These killer-buyers are often able to out-bid other bidders. Horse owners selling their horses at such auctions often have no idea that their horses are being purchased for slaughter, and are devastated when they discover that their horse was slaughtered.

The transportation and slaughter process is often brutal. The horses may travel more than 24 hours to the slaughterhouse, during which time they typically are not provided water, food or rest. Procedures at the slaughterhouses vary. According to an investigative report by the San Antonio Express News, the “puntilla” method of slaughter is the standard method at older Mexican slaughterhouses.³

The “puntilla” method begins with placement of the horse in a narrow chute, where the horse is stabbed with a puntilla knife in the back in order to paralyze it. The horse then is hoisted up by one of its legs and slashed in the neck until it bleeds to death. Reporters from the San Antonio Express witnessed and filmed this process at a horse slaughterhouse in Juarez, Mexico.⁴ On the day of one news visit, it took the slaughterhouse worker 13 stabs in the horse’s back before the horse collapsed.⁵ According to Temple Grandin, a professor of animal science at Colorado State University, repeated jabs to the spinal cord would not immediately kill the

²Humane Society Equine Slaughter Table, 9/24/2008, compiling data from the USDA, Foreign Agricultural Service (FAS) “FAS Agricultural Import Aggregations and HS-10 Digit Import Committees” Commodity Codes 0101901010 & 0101190010 (Live Horses for Immediate Slaughter), weekly Year to Date data from USDA APHIS, “Canadian Live Animal Imports into the U.S. by Destination,” weekly reports listed at http://www.ams.usda.gov/mnreports/wa_ls637.txt; Annual Data from USDA NASS, “Equine Slaughter,” query conducted at <http://www.nass.usda.gov:8080/QuickStats/index2.jsp>; Statistics Canada, Canadian International Merchandise Trade, Commodity Code 0101190010 & 0101900011 (Horses for slaughter), query conducted at http://www.statcan.ca/trade/scripts/7/trade_search.cgi; and USDA Market News Service, “US to Mexico Weekly Livestock Export Summary,” weekly reports listed at http://www.ams.usda.gov/mnreports/al_s635.txt

³Lisa Sandberg, Horse Slaughters Taking Place on the Border, posted October 2, 2007, http://www.mysanantonio.com/news/MYSA093007_01A_horseslaughter_3496288_html860.htm ml (with San Antonio Express News).

⁴Lisa Sandberg & Jerry Lara, Scent of Death, http://www.mysanantonio.com/news/MYSA093007_03B_EN_richtercol_11bea10bf_html4619.html

⁵Sandberg, *supra* note 3.

horse, and the “horse would likely experience being hoisted up and it’s probably going to experience being bled.”⁶

DESCRIPTION OF H.R. 6598

H.R. 6598 amends Chapter 3 of Title 18, which covers “Animals, Birds, Fish, and Plants.” It criminalizes the possession, shipment, transport, purchase, sale, delivery, or receipt of any horse with the intent that it be slaughtered for human consumption. The bill also criminalizes the same conduct with respect to horse carcasses or flesh when intended to be used for human consumption. The law provides for both misdemeanor and felony offenses. A first time offender whose conduct involves less than five horses or 2000 pounds of horse flesh would be guilty of a misdemeanor. A repeat offender, or someone whose crime involves more than five horses or 2000 pounds flesh, faces a felony conviction, with a statutory maximum sentence of 3 years prison.

The bill has a high *mens rea*, requiring that a person knowingly engage in the prohibited conduct *with the intent* that the horse be slaughtered for human consumption. A person who does not knowingly engage in conduct with such intent, such as a farmer who sells his horse and later discovers that the buyer intended to slaughter the horse for human consumption, would not be guilty under this bill.

It is hoped that the existence of this bill will effectively deter the majority of conduct prohibited by the bill. To the extent that people do not comply with the bill and the Department of Justice is required to seize horses, it is anticipated that they will work with local rescue groups and animal shelters for the humane placement or other disposition of the horses.

ARGUMENTS BY OPPONENTS

Opponents of this bill have argued that horse slaughter is a necessary evil, and that without it, the horses that would have been slaughtered will be abandoned or neglected, leading to another and worse form of cruelty to horses. The available evidence, however, does not support this assertion. Between 1990 and 1995, the number of horses slaughtered in the United States decreased from 345,700 to 109, 225. By 2001, the number of horses slaughtered in the United States or exported for slaughter had dropped to only 79, 734.⁷ During this time, there was no reported epidemic of unwanted horses resulting from the decreased number of horses being slaughtered.

According to a 2002 United States Department of Agriculture report, 92.3% of the horses arriving at two Texas slaughter plants arrived in good condition.⁸ They were not the “unwanted” sick, old, or starving horses. This statistic comports with common sense: healthy animals maximize the amount of meat processed per horse and help insure that the meat will be of good quality and safe for human consumption. Thus, the proportion of currently slaughtered

⁶*Id.*

⁷Humane Society Equine Slaughter Table, *supra* note 2.

⁸R. Timothy Cordes, D.V.M. and Betsy J. Stillers, Technical Coordinators, U.S.D.A. Guidebook for USDA’s Slaughter Horse Transport Program, January 2002, at 5.

horses that fall into the category of “unwanted” sick or old horses would appear to be small.

The corollary of the opponents’ argument regarding unwanted horses is that horse slaughter for human consumption is a humane form of euthanasia. Again, the available evidence does not support this claim. The previously described “puntilla” slaughter method used at many slaughterhouses in Mexico could never be considered humane. As described by Dr. Dodman, Director of Animal Behavior Department of Clinical Sciences at Tufts’ Cummings School of Veterinary Medicine, “No ethical veterinarian, faced with a client who has a horse that is old, sick, or otherwise no longer wanted, would suggest that the horse in question should be put on a truck and hauled thousands of miles to slaughter. Instead, the veterinarian would most likely suggest truly humane euthanasia via chemical injection, after which the carcass can be composted, buried, incinerated, sent to landfill or rendered.”⁹ The shot could be performed by any veterinarian at the farm, ranch, or racetrack.

The Committee received many letters from horse rescue organizations across the country, repeatedly telling the same experience of attempting to buy horses at auctions and getting out-bid by “killer-buyers” from the horse slaughterhouses. Based on these and other letters, testimony received at our hearing, and countless phone calls and conversations with other interested stakeholders, it appears to the Committee that there is a strongly committed community of horse rescue and sanctuary organizations, farmers, horse owners, and other entities and persons that are willing and able to assist with any “unwanted” horses that may result from this legislation. Large organizations such as the National Black Farmers Association, Animal Welfare Institute, and the Humane Society of the United States also have pledged to work with their members to find homes for any “unwanted horses.”

Horse slaughter for human consumption is a business. It is motivated by economic forces, not altruistic ones. In the Committee’s opinion, the equities balance in favor of this legislation. We know for certain that if we do nothing, hundreds of thousands of horses will meet cruel and inhumane deaths at foreign slaughterhouses; if we pass this legislation, we save horses from suffering this same fate in the future. There may be unintended adverse consequences for a small percentage of these horses; but we are confident that the supporters of this bill—which are many and varied—are sincere about their commitment to the welfare of all horses.

HEARINGS

The Committee’s Subcommittee on Crime, Terrorism, and Homeland Security held 1 day of hearings on H.R. 6598, on July 31, 2008. Testimony was received from Liz Ross, Federal Policy Advisor, Animal Welfare Institute; the Honorable Charles W. Stenholm, Former Member of Congress and Senior Policy Advisor at Olsson Frank Weeda Terman Bode Matz PC; Dr. John Boyd, Jr., President, National Black Farmers Association; Dr. Douglas G. Corey, DVM and Past President of the American Association of Equine Practitioners; Dr. Nicholas Dodman, DVM and Professor, Section

⁹Written testimony of Dr. Dodman at 2, submitted for the Crime, Terrorism, and Homeland Security Subcommittee hearing on July 31, 2008.

Head and Program Director, Animal Behavior Department of Clinical Sciences Tufts' Cummings School of Veterinary Medicine and founding member of Veterinarians for Equine Welfare; and Wayne Pacelle, President and Chief Executive Officer of the Humane Society of the United States, with additional material submitted by the Animal Welfare Institute.

COMMITTEE CONSIDERATION

The Committee met in open session to consider H.R. 6598 on September 10, 2008, September 17, 2008, and September 23, 2008. On September 23, 2008, the Committee met in open session and ordered the bill H.R. 6598 favorably reported with an amendment, by voice vote, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following rollcall votes occurred during the Committee's consideration of H.R. 6598.

1. An amendment by Mr. Goodlatte substituting the Secretary of Agriculture for the Attorney General as the entity responsible for providing for the humane placement or other disposition of any horse seized in connection with an offense under this section. Defeated 9 to 13.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Conyers, Jr., Chairman		X	
Mr. Berman			
Mr. Boucher			
Mr. Nadler		X	
Mr. Scott		X	
Mr. Watt			
Ms. Lofgren		X	
Ms. Jackson Lee			
Ms. Waters			
Mr. Delahunt			
Mr. Wexler		X	
Ms. Sánchez		X	
Mr. Cohen		X	
Mr. Johnson			
Ms. Sutton		X	
Mr. Gutierrez			
Mr. Sherman		X	
Ms. Baldwin		X	
Mr. Weiner			
Mr. Schiff			
Mr. Davis			
Ms. Wasserman Schultz		X	
Mr. Ellison			
Mr. Smith, Ranking Member	X		
Mr. Sensenbrenner, Jr.	X		
Mr. Coble	X		
Mr. Gallegly		X	
Mr. Goodlatte	X		
Mr. Chabot			
Mr. Lungren			
Mr. Cannon	X		
Mr. Keller		X	
Mr. Issa			

ROLLCALL NO. 1—Continued

	Ayes	Nays	Present
Mr. Pence			
Mr. Forbes	X		
Mr. King	X		
Mr. Feeney	X		
Mr. Franks			
Mr. Gohmert			
Mr. Jordan	X		
Total	9	13	

2. An amendment by Mr. King requiring the Attorney General to reimburse State and local governments for costs incurred caring for stray or abandoned horses and to compensate horse owners for disposal of horses other than through sale. Defeated 7 to 14.

ROLLCALL NO. 2

	Ayes	Nays	Present
Mr. Conyers, Jr., Chairman		X	
Mr. Berman		X	
Mr. Boucher			
Mr. Nadler		X	
Mr. Scott		X	
Mr. Watt			
Ms. Lofgren		X	
Ms. Jackson Lee			
Ms. Waters			
Mr. Delahunt			
Mr. Wexler		X	
Ms. Sánchez		X	
Mr. Cohen		X	
Mr. Johnson			
Ms. Sutton		X	
Mr. Gutierrez			
Mr. Sherman			
Ms. Baldwin		X	
Mr. Weiner		X	
Mr. Schiff			
Mr. Davis			
Ms. Wasserman Schultz		X	
Mr. Ellison			
Mr. Smith, Ranking Member	X		
Mr. Sensenbrenner, Jr.	X		
Mr. Coble	X		
Mr. Gallegly		X	
Mr. Goodlatte	X		
Mr. Chabot			
Mr. Lungren			
Mr. Cannon	X		
Mr. Keller		X	
Mr. Issa			
Mr. Pence			
Mr. Forbes			
Mr. King	X		
Mr. Feeney			
Mr. Franks			
Mr. Gohmert			
Mr. Jordan	X		
Total	7	14	

3. An amendment by Mr. Steve King (IA 5) providing that conduct that would otherwise constitute an offense under this Act would not be an offense during a “calendar year” unless the Department of Justice certifies in advance that, for that year, space is available at United States rescue facilities to provide unwanted horses with shelter. Defeated 7 to 20.

ROLLCALL NO. 3

	Ayes	Nays	Present
Mr. Conyers, Jr., Chairman		X	
Mr. Berman		X	
Mr. Boucher			
Mr. Nadler		X	
Mr. Scott		X	
Mr. Watt		X	
Ms. Lofgren		X	
Ms. Jackson Lee		X	
Ms. Waters		X	
Mr. Delahunt		X	
Mr. Wexler			
Ms. Sánchez		X	
Mr. Cohen		X	
Mr. Johnson		X	
Ms. Sutton		X	
Mr. Gutierrez			
Mr. Sherman		X	
Ms. Baldwin		X	
Mr. Weiner		X	
Mr. Schiff			
Mr. Davis			
Ms. Wasserman Schultz		X	
Mr. Ellison			
Mr. Smith, Ranking Member	X		
Mr. Sensenbrenner, Jr.			
Mr. Coble	X		
Mr. Gallegly		X	
Mr. Goodlatte	X		
Mr. Chabot		X	
Mr. Lungren			
Mr. Cannon	X		
Mr. Keller		X	
Mr. Issa			
Mr. Pence			
Mr. Forbes	X		
Mr. King	X		
Mr. Feeney			
Mr. Franks			
Mr. Gohmert			
Mr. Jordan	X		
Total	7	20	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 6598, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 25, 2008.

Hon. JOHN CONYERS, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6598, the Prevention of Equine Cruelty Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

PETER R. ORSZAG,
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.
Ranking Member

H.R. 6598—Prevention of Equine Cruelty Act of 2008.

As ordered reported by the House Committee on the Judiciary on September 23, 2008

CBO estimates that implementing H.R. 6598 would have no significant cost to the Federal Government. Enacting the bill could affect direct spending and revenues, but CBO estimates that any such effects would not be significant.

H.R. 6598 would impose a private-sector and intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). It would prohibit possessing, shipping, transporting, purchasing, selling, delivering, or receiving any horse in interstate or foreign commerce that is to be slaughtered for human consumption. The cost of the mandate to the private sector would be the loss of income to persons that transport horses for slaughter and the cost to horse owners to dispose of horses that otherwise would have been slaughtered for human consumption. Based on information from the Department of Agriculture, CBO expects that those costs would fall below the annual threshold established by UMRA for private-sector mandates (\$136 million in 2008, adjusted annually for inflation).

This mandate also would affect State, local, and tribal governments to the extent that they would be responsible for unwanted

horses that otherwise would have been sold and slaughtered. Because most unwanted horses remain in the hands of private individuals or organizations, CBO estimates that this cost would not be large, and would be well below the threshold established in UMRA for intergovernmental mandates (\$68 million in 2008, adjusted annually for inflation).

H.R. 6598 would establish a new Federal crime relating to the slaughter of horses for human consumption. If the bill is enacted, the government might be able to pursue cases that it otherwise would not be able to prosecute. However, we expect that H.R. 6598 would apply to a relatively small number of offenders, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under H.R. 6598 could be subject to criminal fines, the Federal Government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, then deposited in the Crime Victims Fund, and later spent. Thus, enacting H.R. 6598 could increase revenues and direct spending; however, CBO expects that any such impact would not be significant.

The CBO staff contacts for this estimate are Mark Grabowicz (for Federal costs), who can be reached at 226-2860, Amy Petz (for the private-sector impact), who can be reached at 226-2940, and Elizabeth Cove (for the State and local impact), who can be reached at 225-3220. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 6598 will make it a crime to possess, ship, transport, purchase, sell, deliver or receive, in or affecting interstate or foreign commerce, any horse, horse flesh or horse carcass with the intent that it be slaughtered or used for human consumption.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 3 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 6598 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title. Section 1 sets forth the short title of the bill as the “Prevention of Equine Cruelty Act of 2008.”

Sec. 2. Slaughter of Horses for Human Consumption. Section 2 amends Chapter 3 of Title 18 by adding a new criminal code section, “Slaughter of horses for human consumption.” It provides that anyone who knowingly (1) possesses, ships, transports, purchases, sells, delivers, or receives, in or affecting interstate commerce or foreign commerce, any horse with the intent that it be slaughtered for human consumption; or (2) possesses, ships, transports, purchases, sells, delivers, or receives, in or affecting interstate commerce or foreign commerce, any horse flesh or carcass with the intent that it be used for human consumption, shall be fined or imprisoned not more than 3 years, or both. A defendant who engages in the above conduct, but has no prior conviction under this section and whose conduct involves less than five horses or 2000 pounds of horse flesh, shall be fined or imprisoned not more than 1 year or both.

Section 2 provides that the Attorney General, in consultation with the Secretary of Agriculture, shall provide for the humane placement or other humane disposition of any horse seized in connection with this offense. In prior criminal cases where dogs were seized in criminal prosecutions for illegal dog fighting, the Department of Justice worked with local animal rescue organizations and animal shelters to humanely place the seized dogs. The Committee expects that the Department of Justice would use similar procedures with horses seized under this Act. The word “horse” is defined as any member of the family Equidae. Section 2 also amends the table of sections.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

* * * * *

CHAPTER 3—ANIMALS, BIRDS, FISH, AND PLANTS

- Sec.
 41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.
 * * * * *
 50. *Slaughter of horses for human consumption.*
 * * * * *

§ 50. Slaughter of horses for human consumption

- (a) *Except as provided in subsection (b), whoever knowingly—*
 (1) *possesses, ships, transports, purchases, sells, delivers, or receives, in or affecting interstate commerce or foreign commerce, any horse with the intent that it is to be slaughtered for human consumption; or*
 (2) *possesses, ships, transports, purchases, sells, delivers, or receives, in or affecting interstate commerce or foreign commerce, any horse flesh or carcass or part of a carcass, with the intent that it is to be used for human consumption;*

shall be fined under this title or imprisoned not more than three years or both.

(b) If—

(1) the defendant engages in conduct that would otherwise constitute an offense under subsection (a);

(2) the defendant has no prior conviction under this section; and

(3) the conduct involves less than five horses or less than 2000 pounds of horse flesh or carcass or part of a carcass;

the defendant shall, instead of being punished under that subsection, be fined under this title or imprisoned not more than one year, or both.

(c) The Attorney General, in consultation with the Secretary of Agriculture, shall provide for the humane placement or other humane disposition of any horse seized in connection with an offense under this section.

(d) As used in this section, the term “horse” means any member of the family Equidae.

* * * * *

MINORITY VIEWS

We depart from the Majority and oppose H.R. 6598, the Prevention of Equine Cruelty Act of 2008. H.R. 6598 creates a federal crime for the transport, purchase, or sale in interstate or foreign commerce of a horse that is intended to be slaughtered for human consumption. A person convicted of this offense will face from one to three years in prison.

As an initial matter, we do not believe that the Committee on the Judiciary has jurisdiction over the housing, care, or transportation of horses. Federal law regulating the care and transportation of horses, particularly the transportation of horses to slaughter, is within the exclusive jurisdiction of the Committee on Agriculture.¹ The Committee on Judiciary certainly has jurisdiction over laws pertaining to criminal conduct. However, we do not believe that the transport, purchase, or sale of a horse that is intended to be slaughtered is conduct that should be criminalized. Further, the Department of Justice, the agency that the Committee on the Judiciary oversees and that this bill creates new duties for, does not play a role in the regulation of horses or other livestock nor is it suited for such a responsibility.

We believe that this bill came to our Committee as the result of forum shopping for a friendly venue by its proponents. Previous iterations of this bill were considered in the Committee on Energy and Commerce and the Agriculture Committee (H.R. 503 in the 109th Congress). We are concerned that the favorable reporting out of this bill will encourage other interest groups to repeat this untoward practice in the future.

On the merits, we believe that this bill unwisely expands the federal criminal code. There are no horse-slaughter plants operating within the U.S. today. The three remaining plants were closed just in the last few years. What this bill actually does is penalize the sale of horses by Americans in a not so veiled attempt to prohibit

¹ P.L. 104–127, sec. 901–905 (1996).

human consumption of horses in foreign countries by way of the criminal code.

Proponents of this bill are allegedly motivated by their desire for the humane treatment of horses. According to industry experts, there are as many as 100,000 unwanted horses in this country every year. Yet this legislation makes no provision for the housing, care, or disposal of unwanted horses or horses whose owners can no longer afford to care for them. It simply prohibits the sale of horses for slaughter. We fear that the conduct criminalized by H.R. 6598 will expose horse-owners across the country to unwarranted prosecution.

The impact of this bill will be far-reaching. Many horses will be abandoned or neglected by their owners. Rather than criminalizing the sale of horses to foreign countries, the Committee's efforts would be better focused on addressing the insufficient number of shelters and other rescue facilities across the country to provide care to abandoned and unwanted horses. To date, no proposed state or federal law has addressed funding of care for unwanted horses, long-term placement of affected horses or established guidelines for standards of care at retirement and rescue facilities. Failing to address these core issues adversely affects the welfare of horses.

Advocates of H.R. 6598 argue that owners of unwanted horses can move them to "adoption" facilities across the country. While there are a number of facilities in the U.S. providing homes for old and unwanted horses, the capacity of these individual facilities is usually limited to 30 horses or less. According to the American Association of Equine Practitioners, horse adoption facilities are having to turn away horses and are pleading for financial assistance. The infrastructure to care for so many unwanted horses is simply not yet in place.

Advocates of this bill also argue that owners who cannot find housing for their unwanted horses should euthanize the animals rather than abandon or neglect them. However, the process to euthanize a horse and dispose of its carcass can be very expensive, costing over \$1000 in some states. Imposing these costs on farmers and ranchers is unfair when other options for the disposal of horses, such as slaughter, exist.

In sum, this bill will lead to unnecessary prosecutions, exacerbate the problem of unwanted and abandoned horses, and will place a significant burden on America's ranchers and farmers. We oppose this bill and urge our colleagues to oppose its adoption on the House floor.

LAMAR SMITH.
BOB GOODLATTE.
STEVE KING.
JIM JORDAN.