



Horse Slaughter Prevention Bills and Issues

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Summary

In 2006 two Texas plants and one in Illinois slaughtered nearly 105,000 horses for human food, mainly for European and Asian consumers. In 2007, court action effectively closed the Texas plants, and a state ban in Illinois closed that plant. Meanwhile, activists have continued to press Congress for a federal ban. Lawmakers have prohibited the use of funds or user fees for inspection of horses for human food in several years' appropriations measures, including FY2010 (P.L. 111-80). Pending at the start of the second session of the 111th Congress are bills (H.R. 503, S. 727) that would made it a crime to knowingly possess, ship, transport, sell, deliver, or receive any horse, carcass, or horse flesh intended for human consumption.

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Overview

Nearly 105,000 horses were slaughtered for human food in 2006, all in two foreign-owned Texas plants and a third foreign plant in Illinois, according to the U.S. Department of Agriculture (USDA). Virtually all the meat was for export, the largest markets being France, Belgium, Switzerland, Italy, Japan, and Mexico. The United States exported more than 17,000 metric tons of horse meat valued at about \$65 million in 2006. Most of these horses were raised for other purposes, like riding. Dealers collected them for the plants from auctions, boarding facilities, and elsewhere. Although U.S. horse slaughter had been rising since 2002—before a recent series of court actions closed the three plants—it remained below levels of the 1980s, when more than 300,000 were processed annually in at least 16 U.S. plants.

Although U.S. slaughter has ended for the present, advocates continue to support federal legislation to ban it permanently. They—and those who have opposed a permanent ban—also express concern about the shipment of more U.S. horses to Canada and Mexico, where plants can still slaughter them for food.

Legal Authorities

Federal Law

Prior to the passage of recent appropriations measures, federal laws neither banned the use of equines for food nor set on-farm care standards. Protection usually has been subject to varying state and local laws. Some of these laws may set care standards, although more are likely to be anti-cruelty measures. However, U.S. horse slaughter plants were long subject to the Federal Meat Inspection Act (FMIA) of 1906, as amended (21 U.S.C. 601 *et seq.*), which requires USDA to inspect all cattle, sheep, swine, goats, and equines slaughtered and processed into products for human food. This act, administered by USDA's Food Safety and Inspection Service (FSIS), aims to ensure that meat and meat products from these animals are safe, wholesome, and properly labeled. FSIS safety inspection is mandatory, and most costs must be covered by appropriated funds, except for overtime and holiday periods. Meat inspectors also are charged with enforcing the Humane Methods of Slaughter Act (7 U.S.C. 1901 *et seq.*), requiring that livestock (but not poultry) be rendered unconscious prior to slaughter.

Plants also can request that graders from USDA's Agricultural Marketing Service (AMS) be placed in their plants to assign official grades to their products based on quality traits and yield. Plants pay user fees for this inspection service, which is voluntary and conducted under authority of the Agricultural Marketing Act (AMA) of 1946 as amended (7 U.S.C. §§1621 *et seq.*). The 1946 AMA is also the authority FSIS uses to provide voluntary food safety inspections of animals and products not specifically covered by either the Federal Meat Inspection Act or the Poultry Products Inspection Act.

Horses often had to be shipped long distances to reach the few U.S. plants that, until 2007, were slaughtering them. Horse practitioners and welfare groups gained passage of language in the 1996 farm bill (P.L. 104-127, Title IX-A, Commercial Transportation of Equine for Slaughter, 7 U.S.C. note) that authorized the Secretary of Agriculture to issue guidelines for regulating such transport, subject to available appropriations. USDA's Animal and Plant Health Inspection Service (APHIS)

developed the guidelines with the cooperation of horse groups, and they became effective on February 5, 2002.¹

Legal Developments

Several states have laws aimed at preventing the slaughter of horses for human food. A federal lawsuit filed by the owners of the two Texas slaughter plants, Beltex Corporation and Dallas Crown, Inc., sought to clarify that the Texas state law banning the sale of horsemeat, first passed in 1949, was not enforceable and that they should not be prosecuted. The U.S. District Court for the Northern District of Texas in Fort Worth had earlier agreed with the plants' owners that the law had been repealed, was preempted by the FMIA, and violated the dormant Commerce Clause of the U.S. Constitution. However, on January 19, 2007, a panel of the U.S. Court of Appeals for the Fifth Circuit rejected all three arguments, declaring the Texas law to be in force and clearing the way for the state attorney general to prosecute the plant owners if they continued to operate. The two plants have ceased slaughtering for human food.

Elsewhere, the Illinois legislature in May 2007 passed a law banning horse slaughter. The Illinois plant (owned by Cavel International) was able to operate until September 2007, when the U.S. Court of Appeals for the Seventh Circuit ruled that the state law does not violate the interstate and foreign commerce clauses of the U.S. Constitution. The plant appealed to the U.S. Supreme Court, which in June 2008 declined to hear the case.

Several states (e.g., South Dakota, North Dakota, Tennessee) are currently considering establishing horse processing facilities. Legislation to permit investor-owned equine processing facilities in Montana went into effect in May 2009.

Federal Legislation

USDA Appropriations Bans

During debate on USDA's FY2006 appropriation (H.R. 2744), the House on June 8, 2005, approved, 269 to 158, an amendment by Representative Sweeney to prohibit funds provided in the measure to pay for the ante-mortem inspection of horses under the meat inspection act. On September 20, 2005, the Senate adopted an identical floor amendment by Senator Ensign, by a 69 to 28 vote. The final conference report (H.Rept. 109-255), signed as P.L. 109-97 on November 10, 2005, retained this amendment, but delayed the effective date for 120 days.

Because the FMIA has long required FSIS inspection of equines (like other designated livestock species) before the meat may enter commerce, the amendment's supporters presumed that the plants could no longer process them for human food. However, the final House-Senate report stated: "It is the understanding of the conferees that the Department is obliged under existing statutes to provide for the inspection of meat intended for human consumption (domestic and exported). The conferees recognize that the funding limitation in § 794 prohibits the use of appropriations only for payment of salaries or expenses of personnel to inspect horses."

¹ Other federal laws protect horses used in research, and ban "soring" for shows. See CRS Report 94-731, *Brief Summaries of Federal Animal Protection Statutes*, by Vivian S. Chu.

Subsequently, the three plants, on November 23, 2005, petitioned USDA for voluntary ante-mortem inspection under the 1946 AMA, with the ante-mortem portion funded by user fees. The plants and other horse slaughter supporters noted that the relatively narrow wording of the Sweeney-Ensign language only prohibited use of funds for ante-mortem horse inspection under the FMIA, not for other, post-slaughter inspection activities. They also cited the conference report language, which stated that USDA still was obliged to conduct inspections.

On February 8, 2006, USDA cited the AMA authority to publish such an interim rule. FSIS amended existing regulations that apply to “exotic species” (bison, deer, etc.), adding a new subpart that applied to horses starting March 10, 2006. Under the rule, USDA used many of the same FMIA guidelines for ante-mortem horse inspection. Also, post-mortem horse inspection could continue under the FMIA, using appropriated funds.² Congressional supporters of the original Sweeney/Ensign amendment objected to the rule, declaring that it circumvented their clear intent to halt horse slaughter.

The version of the FY2008 USDA appropriation (H.R. 3161, § 738) passed by the House in late July 2007 continued the prohibition against using appropriated funds to inspect horses prior to slaughter for human food. Furthermore, the measure prohibited the USDA-FSIS rule (see above) that provided for the collection of user fees as well. The committee-reported Senate version (S. 1859) did not include the ban. In lieu of a freestanding FY2008 bill, Congress included USDA funding as Division A of the Consolidated Appropriations Act, 2008 (P.L. 110-161). This consolidated act (§ 741) included the House language to ban both appropriated funds and user fees for horse inspection (although, as noted, slaughter at the three plants already had been halted by the courts and by state law). The Omnibus Appropriations Act, 2009 (P.L. 111-8), which includes USDA funding as Division A, continued this prohibition (at § 739), as does the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (P.L. 111-80).

Legislation in the 111th Congress

H.R. 503, introduced by House Judiciary Committee Chairman Conyers, and S. 727, introduced by Senator Landrieu, are companion bills to amend the criminal portion (Title 18) of the *U.S. Code* to make it illegal to knowingly possess, ship, transport, purchase, sell, deliver, or receive any horse, horseflesh, or carcass intended for human consumption. Violators would be subject to fines or up to three years in prison. (A different measure, H.R. 305 by Representative Kirk, would prohibit the transportation of horses in double-decker trailers, subjecting violators to civil penalties of between \$100 and \$500 for each horse involved.)

Bills in the 110th Congress

The Conyers bill had been introduced into the 110th Congress as H.R. 6598.³ The Judiciary Committee held a hearing on H.R. 6598 on July 31, 2008, and ordered the bill to be favorably

² USDA’s rule estimated that the new fees would amount to between \$68,000 to \$102,000 during FY2006. Total salary costs for the six federal inspectors who staff the three horse processing plants are about \$400,000 per year; this excludes some expenses such as lab fees and the costs of relief inspectors. Source: May 16, 2006 telephone communication with FSIS budget official.

³ In this earlier Conyers bill (H.R. 6598) but not in the current one (H.R. 503) was a provision requiring the U.S. Attorney General to “provide for the humane placement or other humane disposition of any horse seized in connection (continued...)”

reported (H.Rept. 110-901) on September 23, 2008. Full House action did not occur. (The Kirk bill banning the movement of horses in double-decker trailers was H.R. 6278 in this Congress.)

Also in the 110th Congress, companion bills to prohibit permanently the movement and slaughter of horses for human food were introduced by Representative Schakowsky and Senator Landrieu (H.R. 503, S. 311). These measures would have amended the Horse Protection Act (15 U.S.C. §1821 *et seq.*), which currently makes it a crime to exhibit or transport for the purpose of exhibition any “sore” horse (i.e., one whose feet have been injured to alter its gait). The Schakowsky and Landrieu bills would have prohibited the “shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of any horse or other equine to be slaughtered for human consumption.” The bills would have permitted USDA to detain for examination and evidence any horse for which it has probable cause that the animal will be slaughtered for food. Violators would have been subject to specified criminal and civil penalties and prison terms. The bills would have increased authorized appropriations for administering the act from \$500,000 to \$5 million annually. The Senate Commerce Committee ordered the bill to be favorably reported (S.Rept. 110-229) on April 25, 2007; full Senate action did not occur.

Bills in the 109th Congress

In the 109th Congress, the full House had approved H.R. 503 by a 263-146 vote on September 7, 2006, turning aside opposition, and major changes made earlier, by the House Agriculture Committee. Senate action on S. 1915 did not occur. In the 108th Congress, proposed bills (H.R. 857 and S. 2352) to halt horse slaughter differed in detail from the more recent measures. For example, these earlier bills did not amend the Horse Protection Act. H.R. 857 and S. 2352 also explicitly would have required officials to work with animal welfare societies and animal control departments to place confiscated horses temporarily with a nonprofit animal rescue facility, required the owner of a confiscated horse to post a bond sufficient to provide for 60 days of care, and required the Secretary to make grants to specified rescue facilities willing to accept confiscated horses.

Wild Horses and Burros

A somewhat related issue revolves around provisions of the Wild Free-Roaming Horses and Burros Act of 1971 (16 U.S.C. §1331 *et seq.*), which seeks to protect wild horses and burros on federal lands. At issue has been whether, and under what conditions, such horses could be acquired and eventually sold for slaughter. An explanation of this issue can be found in CRS Report RL34690, *Wild Horses and Burros: Current Issues and Proposals*, by Carol Hardy Vincent.

Selected Arguments

Most U.S. and Canadian consumers view horses as performance and companion animals rather than food. Horse protection and animal welfare groups contend that Americans overwhelmingly

(...continued)

with an offense under this section.”

favor an end to horse slaughter for human food, a practice such groups have called cruel and unnecessary. According to these groups, horses are transported long distances often in deplorable conditions in poorly equipped trucks and trailers, where they are exposed to bad weather and often inadequate rest, food, and water.

However, a veterinary journal article counters: “Market demand for horsemeat for human consumption is almost certain to continue and may grow in the foreseeable future. It is therefore proper and necessary that we continue to work with national and international groups to provide humane care for horses intended for slaughter and maintain as much consensus and practicality on these issues as possible.”⁴

One concern expressed by opponents of a ban on horse slaughter is that “rescued” horses are more likely to become neglected and abused by owners who lack the knowledge, financial resources, and/or interest to care for them. At the same time, the existing U.S. horse infrastructure cannot absorb the large numbers of animals that would be confiscated or otherwise diverted from slaughter as a result of a slaughter prohibition, opponents of such a ban believe. The American Horse Protection Association (AHPA) is opposed to the slaughter of horses for food but did not endorse the slaughter ban bills in the 108th Congress. AHPA, which maintains a list of U.S. and foreign horse sanctuaries, had observed that not all sanctuaries may have the means or business skills to take in large numbers of horses, and that no nationwide standard-setting or oversight system exists for them.⁵ A Texas rescue group stated: “Some equine rescues are large organizations with a system of checks that keep everyone honest. Others may be small one or two person operations. There are no national oversight organizations that can verify the honesty of a nonprofit equine rescue.”⁶

The National Horse Protection Coalition (NHPC) asserted that sanctuary associations have accreditation programs and “strict guidelines,” and that state and local animal welfare laws exist to ensure humane animal care. Others counter that such guidelines, if they exist, have not been endorsed or overseen by any nationally recognized authority, and that most state and local laws are anti-cruelty measures, not proactive care standards.

Some, including the Humane Society of the United States (HSUS), have observed that equine shelters are less well-established than cat and dog shelters, which often are associated with local governments and humane societies. Citing the “extreme costs” and staff time needed to shelter horses, HSUS warned of needing to be aware of “distinctions between sheltering horses and sheltering other companion animals.”⁷ The American Association of Equine Practitioners (AAEP) estimated that the cost of a horse’s basic care approximates \$1,825 annually, exclusive of veterinary and farrier care. A more recent study estimated the annual cost of caring for an unwanted horse at \$2,340.⁸

⁴ Reece and others, “Equine Slaughter Transport—Update on Research and Regulations,” *Journal of the American Veterinary Medical Association*, April 15, 2000.

⁵ Personal communication, May 4, 2004, AHPA.

⁶ Habitat for Horses, Inc., Texas, at <http://www.habitatforhorses.org/rescues/rescuelinks.html>.

⁷ HSUS, *Animal Sheltering*, May-June 2000 issue.

⁸ “The Unintended Consequences of a Ban on the Humane Slaughter (Processing) of Horses in the United States,” for the Animal Welfare Council, May 15, 2006. The study set the total U.S. horse population at 9.2 million. See <http://www.animalwelfarecouncil.org>.

NHPC has argued: “Not every horse currently going to slaughter will be rescued by one of these non-profit organizations, but many horses will be kept longer, will be sold directly to a new owner ... or will be humanely euthanized by a licensed veterinarian,” among other alternatives. Euthanasia methods—primarily chemical injection and in some emergency situations, gunshots—are considered by the NHPC and others to be more humane than slaughter, which generally involves stunning with a captive bolt to make the animal unconscious before it is killed and bled. Euthanasia averages from \$50 to \$150 per horse, a “tiny fraction of the cost of keeping a horse as a companion or work animal,” NHPC has stated in response to arguments about the high expense of dealing with a horse diverted from slaughter.⁹

Opponents of a slaughter ban contend that disposing of many additional horses each year could create environmental problems, such as soil and groundwater contamination. Ban supporters counter that hundreds of thousands of U.S. horses die naturally or are euthanized each year, and are now safely disposed of. Many are not buried but sent to rendering plants, where their remains are used in industrial products and animal feeds. Renderers already handle millions of cattle and hogs that die before slaughter; another 90,000 horses easily could be absorbed into the existing system, ban supporters maintain.¹⁰

One issue has been whether the unwanted horses that had been sent to U.S. packing plants are now simply moving into Canada and Mexico to be slaughtered there—and if so, what if anything should be done to halt the practice. According to USDA, the United States in 2006 exported nearly 26,000 live horses to Canada and more than 19,000 to Mexico. In 2007, the year all three U.S. slaughter plants closed, 47,000 U.S. horses went to Canada and 45,000 to Mexico. In 2008, Canada and Mexico imported approximately 77,000 and 69,000 U.S. horses, respectively. The American Veterinary Medical Association (AVMA), which generally has opposed slaughter ban legislation, has asserted that the majority of these horses have been slaughtered for food in those countries, and otherwise would have been transported and slaughtered in the United States under close U.S. regulatory oversight and humane conditions.¹¹ Bill supporters argue that one intention of bills such as H.R. 503 and S. 727 is to prevent such exports, by prohibiting the possession, shipment, transport, purchase, sale, delivery, or reception of a horse “with the intent that it is to be slaughtered for human consumption.” Bill critics have countered that enforcement and oversight are problematic once horses leave the country.

⁹ Former NHPC website accessed May 2004. In 2008, the NHPC was redirecting its website visitors to the National Horse Protection League at <http://www.horse-protection.org/about/>.

¹⁰ One expert estimated that almost 200,000 deceased horses must be disposed of annually; about a third are processed for human food. Source: Messer, Nat T. IV, DVM. “The Plight of the Unwanted Horse: Scope of the Problem,” at an April 19, 2005, Washington, D.C., workshop. Dr. Messer cited similar statistics in an updated presentation at a June 2008 forum entitled “The Unwanted Horse Issue: What Now?” The proceedings were accessed May 8, 2009, at <http://www.nal.usda.gov/awic/pubs/FTAAProceedings/unwantedhorseproceedings2008.pdf>.

¹¹ See also “Horse slaughter conditions in Mexico explored by AAEP group,” *JAVMA News*, March 1, 2009, accessed May 8, 2009, at <http://www.avma.org/onlnews/javma/mar09/090301h.asp>.

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