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**APPROVED**

JUL 13 1976

*Statement  
revised  
7/14/76*

*8/13/76*

THE WHITE HOUSE

WASHINGTON

July 12, 1976

ACTION

Last Day: July 13

*Posted  
7/14/76*

*Archives  
7/14/76*

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON

SUBJECT:

S. 811 - Horse Protection Act  
Amendments of 1976

Attached for your consideration is S. 811, sponsored by Senator Tunney and twelve others.

The enrolled bill would strengthen the statutory authorities for enforcement of the Horse Protection Act of 1970. This Act was enacted in an attempt to stop the inhumane practice of soring horses. The enrolled bill also authorizes appropriations of \$125,000 for the transition quarter and \$500,000 for each fiscal year thereafter.

A detailed discussion of the amendments is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill and the proposed signing statement which has been cleared by the White House Editorial Office (Smith).

RECOMMENDATION

That you sign S. 811 at Tab B.

That you approve the signing statement at Tab C.

Approve

*[Handwritten signature]*

Disapprove \_\_\_\_\_



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

JUL 8 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 811 - Horse Protection  
Act Amendments of 1976  
Sponsors - Sen. Tunney (D) California  
and 18 others

Last Day for Action

July 13, 1976 - Tuesday

Purpose

Strengthens the statutory authorities for enforcement of the Horse Protection Act and authorizes appropriations of (a) \$125,000 for the transition quarter and (b) \$500,000 for each fiscal year thereafter.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Agriculture	Approval
Department of Justice	Defers to Agriculture

Discussion

The Horse Protection Act of 1970 was enacted in an attempt to stop the inhumane practice of soring horses by making it unlawful to exhibit or show sored horses that move in interstate commerce (horse sales or auctions were not covered by the Act). Agriculture is responsible for enforcing this law.

Typically, the gait of a sored horse is altered through the use of chemicals, devices, and other quick and artificial methods instead of through careful breeding and patient training.



The soring of a horse can produce the high-stepping gait of the well-known Tennessee Walking Horse.

S. 811 would strengthen the statutory authorities for the enforcement of the Horse Protection Act as described below:

(1) Revises the definition of "sore" under existing law to eliminate the requirement that the soring of a horse must be done with the specific intent or purpose of affecting its gait and provides that a horse shall be presumed to be sore if it manifests abnormal sensitivity or inflammation in both of its forelimbs or both of its hindlimbs (unsound limbs).

(2) Broadens the Act's scope to cover intra-state commerce.

(3) Requires the management of any horse show or exhibition to disqualify from being shown or exhibited any horse after being notified by a qualified person appointed by the management or by the Secretary of Agriculture to inspect horses that the horse is sore.

(4) Requires the management of any horse sale to prohibit the sale, auction, or exhibition for the purpose of sale of any horse if a qualified person appointed by the management or by the Secretary to inspect horses advises that the horse is sore.

(5) Directs the Secretary to prescribe, by regulation, requirements for the appointment by show or auction management of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purposes of enforcing the Act.

(6) Requires the management of a horse show, horse exhibition, horse sale or auction to establish and maintain such records, make such reports, and provide such information as the Secretary may by regulation reasonably require for the purposes of implementing and enforcing the Act.



(7) Modifies the standard of culpability for criminal violations of the Act from a "willful" standard to a "knowing" standard and provides new and increased criminal and civil penalties for violation of the Act.

(8) Authorizes the Secretary to detail (for a period not to exceed 24 hours) for examination, testing or the taking of evidence, any horse at any horse show, exhibition, sale or auction, which is sore or which the Secretary has probable cause to believe is sore.

(9) Provides that the Secretary may, upon request, provide technical and other nonfinancial assistance to any State to assist it in administering and enforcing any law of such State designed to prohibit conduct in violation of this Act.

(10) Increases the annual maximum authorization of appropriations for carrying out the Act from \$100,000 to \$500,000 effective September 30, 1976, and authorizes an appropriation of \$125,000 for the transition quarter.

The Senate Commerce Committee did not hold hearings on S. 811 and reported the bill before an Administration position had been developed. However, in its report to the House Interstate and Foreign Commerce Committee on the House version of the bill, Agriculture supported the bill subject to amendments that would: (a) increase the responsibilities of horse show/auction managements by requiring the hiring of a qualified individual to inspect horses; (b) impose more stringent civil and criminal penalties for violations; and, (c) provide only a two-year authorization for appropriations at \$500,000 annually in order to see whether the new law would be effective. Shortly after receiving Agriculture's report, the Committee reported the bill without incorporating the Department's recommended amendments.

In its report on the enrolled bill, the House Interstate and Foreign Commerce Committee expressed the view that the practice of horse soring has continued on a widespread basis because of "statutory limitations on enforcement authority, lax enforcement methods, and limited resources of the Department." The Committee gave no indication as to why Agriculture's amendments had been rejected.

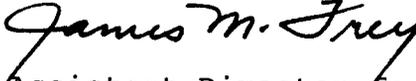
In its letter which recommends approval of S. 811, Agriculture notes that the bill "strengthens greatly the statutory authorities for enforcement of the Horse Protection Act ..." and concludes by noting that:

"The lack of adequate funds and manpower has been a major limitation in our efforts to enforce the present law. To conduct the measures authorized under S. 811, we will need additional appropriations of \$400,000 annually. This will provide a total of \$500,000 which is the maximum amount authorized. Also, we will need additional manpower, as we cannot possibly fulfill our additional responsibilities by utilizing existing personnel."

This Office continues to have several concerns about the enrolled bill. First, the increased Federal regulatory thrust of the bill is inconsistent with your desire to minimize Federal regulatory activities. Second, although the bill's civil and criminal penalties are tougher, past experience under the 1970 Act indicates that the prosecution of violators will be less than vigorous. Third, we would have preferred a two-year as opposed to the permanent authorization provided in the bill. It is questionable just how effective these amendments will be, and two years would have been a good test period.

On the other hand, the enrolled bill does offer the prospect for some elimination of these inhumane "soring" practices and at a budget level that is relatively modest. We believe the key to a successful program centers around industry involvement, and we will work with Agriculture to gain greater support from within the industry for self-policing and compliance with the Department's expanded program. Finally, it should be noted that you recently approved an analogous bill which strengthened Federal law for protecting animals in transit and assuring the more humane treatment of certain animals, including the prohibition of animal fighting ventures. Accordingly, it is difficult to characterize the horse protection amendments as unwarranted.

On balance, we believe the potential advantages of the enrolled bill outweigh its negative features, and accordingly, we concur in Agriculture's approval recommendation. However, we have prepared, for your consideration, a signing statement which notes your support for ending the inhumane practice of soring horses while expressing your concern that the enrolled bill does not contain some of the features which the Administration had proposed in order to achieve a truly effective law.

  
Assistant Director for  
Legislative Reference

Enclosures

STATEMENT BY THE PRESIDENT

I have approved S. 811 which provides amendments to the Horse Protection Act of 1970.

This Act is intended to ban the clearly inhumane practice of intentionally injuring the limbs and hoofs of horses in order to induce the high-stepping gait looked for in certain horse show events.

The amendments contained in S. 811 strengthen the Act in some respects. Unfortunately, however, the approach that the Congress continues to take to eradicate this heinous practice fails to comprehend the real problem.

The practice exists, quite simply, because its perpetrators can make a profit in the horse show circuit by short-cutting the careful breeding and patient training techniques which are normally required to produce high quality show prospects. Until the management of public horse shows and sales assumes -- or is forced by law to assume -- the responsibility of ensuring that these cruelties are not being practiced upon those horses taking part in their sponsored events, real reform will not be assured.

The Department of Agriculture urged the Congress to place the onus on the industry where it belongs, rather than upon Federal regulators. The proposal would have required that the management of every show put in place an inspection system -- using independent, qualified inspectors -- under penalty of law. The Department could then monitor the industry to ensure that the system operated properly. However, the Congress -- in a mistaken belief that the addition of more Federal enforcement officials will solve the problem -- has ignored the real problem and simply authorized more money and stiffened penalties.

I continue to be committed to achieving meaningful reform by compelling this industry to police itself properly. To that end I pledge cooperation with the Congress in seeking continued improvements in the law which will place the primary responsibility for enforcement with the industry itself.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 8

Time: noon

FOR ACTION: Paul Leach  
Max Friedersdorf  
Ken Lazarus  
Robert Hartmann

cc (for information):

jJack Marsh  
Jim Cavanaugh  
Ed Schmults  
Judy Hope

FROM THE STAFF SECRETARY

DUE: Date: July 8

Time: noon

SUBJECT:

S. 811- Horse Protection Act AMendments

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately,

K. R. COLE, JR.  
For the President

STATEMENT BY THE PRESIDENT

I have approved S. 811 which provides amendments to the Horse Protection Act of 1970.

This Act is intended to ban the clearly inhumane practice of intentionally injuring the limbs and hoofs of horses in order to induce the high-stepping gait looked for in certain horse show events.

The amendments contained in S. 811 strengthen the Act in some respects. Unfortunately, however, the approach that the Congress continues to take to eradicate this heinous practice fails to comprehend the problem.

The practice exists, quite simply, because its perpetrators can make a profit -- in the horse show circuit -- by short-cutting the careful breeding and patient training otherwise required to produce high quality show prospects. Accordingly, until the management of both public horse shows and sales assumes -- or is forced by law to assume -- the responsibility of ensuring that these cruelties are not being practiced upon those horses taking part in their sponsored events, real reform cannot be assured.

The Department of Agriculture urged the Congress to place the onus on the industry where it belongs -- and not, primarily, on Federal regulators. The proposal would have required that the management of every show put in place an inspection system -- using independent, qualified inspectors -- under penalty of law. The Department would then monitor the industry to ensure that the system operated properly.

But the Congress -- in the vain belief that more Federal enforcement officials will help -- has ignored the real problem by authorizing more money and stiffening penalties. The plain fact is that there can never be enough Federal inspectors to check every animal -- or even every show.

I continue to be committed to achieving real reform by compelling this industry to police itself -- with personal responsibility on the individuals who manage it.

I pledge cooperation with the Congress in working toward that end.



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

June 29, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D.C. 20503

Dear Mr. Lynn:

In reply to the request of your office the following report is submitted on the enrolled enactment of S. 811, "To amend the Horse Protection Act of 1970 to better effectuate its purposes."

This Department recommends that the President approve the bill.

The bill strengthens greatly the statutory authorities for enforcement of the Horse Protection Act. The enclosed statement describes the various provisions of the bill.

Primarily, the bill (a) revises the criteria for identifying a sore horse, including the elimination of the need to establish intent; (b) extends jurisdiction of the law over horses in intrastate commerce; (c) includes horse sales and auctions, and assigns increased statutory responsibility to the managers of horse shows, exhibitions, sales or auctions to prevent the showing or selling of sored horses; (d) authorizes the seizure of equipment, devices, etc., for use as evidence in prosecutions; (e) expands the provisions of the current law concerning prohibited conduct; (f) provides for the disqualification and/or detention of individual horses; (g) increases civil and criminal penalties for violations with particular provisions for repeated violations; (h) provides for disqualification of persons from showing, exhibiting, judging or managing a horse show, exhibition, sale or auction if found guilty of a violation of the Act or assessed a civil penalty with particular provisions for repeat violators; (i) provides subpoena power for administrative proceedings and enforcement thereof; and (j) increases maximum annual fund authorization.

The lack of adequate funds and manpower has been a major limitation in our efforts to enforce the present law. To conduct the measures authorized under S. 811, we will need additional appropriations of \$400,000 annually. This will provide a total of \$500,000 which is the maximum amount authorized. Also, we will need additional manpower, as we cannot possibly fulfill our additional responsibilities by utilizing existing personnel.

Sincerely,

  
RICHARD L. FELTNER  
Assistant Secretary

Enclosure



Summary of Provisions  
of S. 811 - Horse Protection  
Act Amendments of 1976

The bill, S. 811, revises and extends the provisions of the Horse Protection Act of 1970. The substantive changes are as follows:

a) The requirement under existing law that the soring of a horse must be done with the specific intent or purpose of affecting its gait is eliminated.

b) A horse is presumed to be sore if it manifests abnormal sensitivity or inflammation of both of its forelimbs or both of its hindlimbs.

c) Coverage of the Act is expanded to all horse shows, exhibitions, and horse sales or auctions.

(d) The management of any horse show or exhibition is required to disqualify from being shown or exhibited any horse which is sore after being notified by a qualified person appointed by management to inspect horses or by USDA that the horse is sore.

e) The management of any horse sale or auction is required to prohibit the sale or auction or exhibition for the purpose of sale of any horse which is sore or if notified by a qualified person appointed by management to inspect horses or by the Secretary that the horse is sore.

f) The Secretary of Agriculture is directed to promulgate regulations establishing the requirements for the appointment by show or auction management of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purpose of enforcing the Act, and the appointment of persons who, after notice and opportunity for a hearing by the Secretary, have been disqualified to make such detection, diagnosis or inspection is prohibited.

g) The management of a horse show, horse exhibition, horse sale, or auction is required to establish and maintain records, make reports, and provide information as the Secretary may by regulation reasonably require for implementation and enforcement purposes.

h) Upon request of an officer or employee designated by USDA, management is required to permit entry at all reasonable times for the inspection and copying (on or off the premises) of such records as are required to be maintained by the regulations.

i) The Secretary is authorized to inspect any horse show, exhibition, horse sale or auction and any horse at such show, exhibition, sale or auction. Inspections are required to be commenced and completed with reasonable promptness and conducted within reasonable limits and in a reasonable manner.

j) The provisions prescribing prohibited conduct are revised.

k) The standard of culpability for criminal violations is changed from a "willful" standard to a "knowing" standard.

l) New and increased criminal, civil, and administrative sanctions for violations are provided.

m) A person who has been convicted of a criminal violation, or has paid a civil penalty, or who is subject to a final order of assessment of a civil penalty for a violation of the Act or regulation, may be disqualified (after notice and opportunity for a hearing) from showing or exhibiting any horse, judging or managing a horse show, exhibition, sale or auction for a period not less than one year for the first violation and not less than 5 years for any subsequent violation.

n) Provision is made for the administrative assessment, collection, review, compromise, modification, and remission of civil penalties and

for the appeal and judicial review of administrative orders under the provisions of the Act pertaining to civil penalties.

o) Criminal penalties are provided for anyone who forcibly assaults, resists, opposes, impedes, intimidates or interferes with a Department employee while engaged in or on account of the performance of his official duties under the Act or kills or uses a deadly or dangerous weapon in the commission of such acts.

p) The Secretary is authorized to subpoena the attendance and testimony of witnesses and the production of books, papers, and documents, relating to any matter under investigation or the subject of a proceeding.

q) The Secretary, or any party to a proceeding before USDA, is authorized, to invoke the aid of the U.S. district court in requiring attendance and testimony of witnesses and the production of books, papers, and documents in cases of disobedience to a subpoena.

r) The Secretary is authorized to order testimony to be taken by deposition under oath in any proceeding or investigation pending before USDA and to require the production of books, papers, and documents at the taking of depositions.

s) The Secretary is authorized to detain (for a period not to exceed 24 hours) for examination, testing, or the taking of evidence, any horse at any horse show, exhibition, sale or auction, which is sore or which the Secretary has probable cause to believe is sore.

t) Provisions are made for the seizure and condemnation by liable of any equipment, device, paraphernalia, or substance which was used in violation of the Act or regulations or which contributed to the soring of a horse at or prior to a show, exhibition, sale or auction.

u) The Secretary is authorized to provide technical and other

nonfinancial assistance to any State to assist it in administering and enforcing any State law designed to prohibit conduct in violation of the Act.

v) The Secretary is required to submit an annual report to Congress on enforcement and administrative actions and other matters as well as recommendations for legislation or other proposed actions.

w) The maximum authorization for annual appropriations for carrying out the Act is increased from \$100,000 to \$500,000, effective October 1, 1976. An appropriation of \$125,000 for the 1976 transition quarter is authorized.

**Department of Justice**  
**Washington, D.C. 20530**

June 29, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill (S. 811), "To revise and extend the Horse Protection Act of 1970,"

The enrolled bill prohibits the movement of sore horses in commerce; prohibits the showing of horses with an "unsound limb"; prohibits the sale at a public auction or the showing of horses that have been sored; and prohibits the showing of, or the sale at public auction of, horses that are wearing or bearing devices, paraphernalia, or substances which the Secretary of Agriculture bans because they are usually used to make a horse sore or unsound. The bill further requires any person who is responsible for organizing, directing, or administering a horse show, horse exhibition, or public horse sale or auction to disqualify sore horses, or to disqualify therefrom horses found to be sore or to have an unsound limb by a qualified person (i.e., a veterinarian), appointed by management to inspect horses "before, during and after" such show, exhibition, sale, or auction. The management of such shows, exhibitions, sales, and auctions is further required to keep records, subject to inspection by designated agents of the U.S. Department of Agriculture. Penalties are prescribed for those who engage in conduct prohibited by the bill, including a possible 6-month jail term after a trial before a U.S. magistrate and disqualification from participating in further horse shows, exhibitions, and sales for a period to be prescribed.

The Department of Justice defers to the Department of Agriculture regarding Executive action on this legislation.

Sincerely,



Michael M. Uhlmann  
Assistant Attorney General

## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOC NO.:

Date: July 8

Time: noon

FOR ACTION: Paul Leach  
 Max Friedersdorf  
 Ken Lazarus  
 Robert Hartmann

cc (for information):

Jack Marsh  
 Jim Cavanaugh  
 Ed Schmults  
 Judy Hope

FROM THE STAFF SECRETARY

DUE: Date: July 9

Time: noon

SUBJECT:

S. 811- Horse Protection Act Amendments

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

## REMARKS:

please return to judy johnston, ground floor west wing

Bill is supported by Tennessee Walker groups, as well as the "horsey set" in general, in view of the fact that they obtained substantial concessions during the course of legislative consideration.

No objection. -- Ken Lazarus 7/9/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

James M. Cannon

THE WHITE HOUSE  
WASHINGTON

July 9, 1976

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: MAX L. FRIEDERSDORF   
SUBJECT: S. 811 - Horse Protection Act Amendments

The Office of Legislative Affairs concurs with the agencies  
that the subject bill be signed.

Attachments

rec. 7/8/76 - 12 noon

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

*JMCM*

Date: July 8

Time: noon

FOR ACTION: Paul Leach  
Max Friedersdorf  
Ken Lazarus  
Robert Hartmann

cc (for information):

Jack Marsh  
Jim Cavanaugh  
Ed Schmults  
Judy Hope

*To DIS 7/9 4:40  
to [unclear] 7/8 4:15  
GJM*

FROM THE STAFF SECRETARY

DUE: Date: July 9

Time: noon

SUBJECT:

S. 811- Horse Protection Act Amendments

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing



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James M. Cannon

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

JUL 8 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 811 - Horse Protection  
Act Amendments of 1976  
Sponsors - Sen. Tunney (D) California  
and 18 others

Last Day for Action

July 13, 1976 - Tuesday

Purpose

Strengthens the statutory authorities for enforcement of the Horse Protection Act and authorizes appropriations of (a) \$125,000 for the transition quarter and (b) \$500,000 for each fiscal year thereafter.

Agency Recommendations

Office of Management and Budget

Approval (Signing  
Statement attached)

Department of Agriculture  
Department of Justice

Approval  
Defers to Agriculture

Discussion

The Horse Protection Act of 1970 was enacted in an attempt to stop the inhumane practice of soring horses by making it unlawful to exhibit or show sored horses that move in interstate commerce (horse sales or auctions were not covered by the Act). Agriculture is responsible for enforcing this law.

Typically, the gait of a sored horse is altered through the use of chemicals, devices, and other quick and artificial methods instead of through careful breeding and patient training.

The soring of a horse can produce the high-stepping gait of the well-known Tennessee Walking Horse.

S. 811 would strengthen the statutory authorities for the enforcement of the Horse Protection Act as described below:

(1) Revises the definition of "sore" under existing law to eliminate the requirement that the soring of a horse must be done with the specific intent or purpose of affecting its gait and provides that a horse shall be presumed to be sore if it manifests abnormal sensitivity or inflammation in both of its forelimbs or both of its hindlimbs (unsound limbs).

(2) Broadens the Act's scope to cover intra-state commerce.

(3) Requires the management of any horse show or exhibition to disqualify from being shown or exhibited any horse after being notified by a qualified person appointed by the management or by the Secretary of Agriculture to inspect horses that the horse is sore.

(4) Requires the management of any horse sale to prohibit the sale, auction, or exhibition for the purpose of sale of any horse if a qualified person appointed by the management or by the Secretary to inspect horses advises that the horse is sore.

(5) Directs the Secretary to prescribe, by regulation, requirements for the appointment by show or auction management of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purposes of enforcing the Act.

(6) Requires the management of a horse show, horse exhibition, horse sale or auction to establish and maintain such records, make such reports, and provide such information as the Secretary may by regulation reasonably require for the purposes of implementing and enforcing the Act.

(7) Modifies the standard of culpability for criminal violations of the Act from a "willful" standard to a "knowing" standard and provides new and increased criminal and civil penalties for violation of the Act.

(8) Authorizes the Secretary to detail (for a period not to exceed 24 hours) for examination, testing or the taking of evidence, any horse at any horse show, exhibition, sale or auction, which is sore or which the Secretary has probable cause to believe is sore.

(9) Provides that the Secretary may, upon request, provide technical and other nonfinancial assistance to any State to assist it in administering and enforcing any law of such State designed to prohibit conduct in violation of this Act.

(10) Increases the annual maximum authorization of appropriations for carrying out the Act from \$100,000 to \$500,000 effective September 30, 1976, and authorizes an appropriation of \$125,000 for the transition quarter.

The Senate Commerce Committee did not hold hearings on S. 811 and reported the bill before an Administration position had been developed. However, in its report to the House Interstate and Foreign Commerce Committee on the House version of the bill, Agriculture supported the bill subject to amendments that would: (a) increase the responsibilities of horse show/auction managements by requiring the hiring of a qualified individual to inspect horses; (b) impose more stringent civil and criminal penalties for violations; and, (c) provide only a two-year authorization for appropriations at \$500,000 annually in order to see whether the new law would be effective. Shortly after receiving Agriculture's report, the Committee reported the bill without incorporating the Department's recommended amendments.

In its report on the enrolled bill, the House Interstate and Foreign Commerce Committee expressed the view that the practice of horse soring has continued on a widespread basis because of "statutory limitations on enforcement authority, lax enforcement methods, and limited resources of the Department." The Committee gave no indication as to why Agriculture's amendments had been rejected.

In its letter which recommends approval of S. 811, Agriculture notes that the bill "strengthens greatly the statutory authorities for enforcement of the Horse Protection Act ..." and concludes by noting that:

"The lack of adequate funds and manpower has been a major limitation in our efforts to enforce the present law. To conduct the measures authorized under S. 811, we will need additional appropriations of \$400,000 annually. This will provide a total of \$500,000 which is the maximum amount authorized. Also, we will need additional manpower, as we cannot possibly fulfill our additional responsibilities by utilizing existing personnel."

This Office continues to have several concerns about the enrolled bill. First, the increased Federal regulatory thrust of the bill is inconsistent with your desire to minimize Federal regulatory activities. Second, although the bill's civil and criminal penalties are tougher, past experience under the 1970 Act indicates that the prosecution of violators will be less than vigorous. Third, we would have preferred a two-year as opposed to the permanent authorization provided in the bill. It is questionable just how effective these amendments will be, and two years would have been a good test period.

On the other hand, the enrolled bill does offer the prospect for some elimination of these inhumane "soring" practices and at a budget level that is relatively modest. We believe the key to a successful program centers around industry involvement, and we will work with Agriculture to gain greater support from within the industry for self-policing and compliance with the Department's expanded program. Finally, it should be noted that you recently approved an analogous bill which strengthened Federal law for protecting animals in transit and assuring the more humane treatment of certain animals, including the prohibition of animal fighting ventures. Accordingly, it is difficult to characterize the horse protection amendments as unwarranted.

On balance, we believe the potential advantages of the enrolled bill outweigh its negative features, and accordingly, we concur in Agriculture's approval recommendation. However, we have prepared, for your consideration, a signing statement which notes your support for ending the inhumane practice of soring horses while expressing your concern that the enrolled bill does not contain some of the features which the Administration had proposed in order to achieve a truly effective law.

  
Assistant Director for  
Legislative Reference

Enclosures

STATEMENT BY THE PRESIDENT

I have approved S. 811<sup>d</sup> which provides amendments to the Horse Protection Act of 1970.<sup>sh</sup>

This Act is intended to ban the clearly inhumane practice of intentionally injuring the limbs and hoofs of horses in order to induce the high-stepping gait looked for in certain horse show events.

The amendments contained in S. 811<sup>sh</sup> strengthen the Act in some respects. Unfortunately, however, the approach that the Congress continues to take to eradicate this heinous practice fails to comprehend the problem.

The practice exists, quite simply, because its perpetrators can make a profit -- in the horse show circuit -- by short-cutting the careful breeding and patient training otherwise required to produce high quality show prospects. Accordingly, until the management of both public horse shows and sales assumes -- or is forced by law to assume -- the responsibility of ensuring that these cruelties are not being practiced upon those horses taking part in their sponsored events, real reform cannot be assured.

The Department of Agriculture urged the Congress to place the ~~onus on the~~ <sup>responsibility for compliance with the law on</sup> industry where it belongs -- and not,

primarily, on Federal regulators. The proposal would have ~~required that the management of every show put in place an inspection system -- using independent, qualified inspectors -- judges or other qualified persons for the purpose of prohibiting~~ <sup>dramatically increased self-policing action by requiring horse show management to retain independent veterinarians, stewards,</sup> under penalty of law. The Department would then monitor <sup>under the penalty of law, the showing, exhibition, sale of</sup> the industry to ensure that the system operated properly.

D.O.A.  
Mr. Connell  
447-2109

203  
auction of horses that had been cared. The Department  
would have then increased enforcement activities by  
inspecting a representative number of shows while monitoring  
industry affairs to clean up its own house.

But the Congress -- in the vain belief that more Federal  
enforcement officials will help -- has ignored the real  
problem by authorizing more <sup>a</sup> money and stiffening <sup>oh</sup> penalties.  
The plain fact is that there can never be enough Federal  
inspectors to check every animal -- or even every show.

I continue to be committed to achieving real reform  
by compelling this <sup>oh</sup> industry to police itself -- with personal  
responsibility on the individuals who manage it.

I pledge cooperation with the Congress in working  
toward that end.

DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

June 29, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D.C. 20503

Dear Mr. Lynn:

In reply to the request of your office the following report is submitted on the enrolled enactment of S. 811, "To amend the Horse Protection Act of 1970 to better effectuate its purposes."

This Department recommends that the President approve the bill.

The bill strengthens greatly the statutory authorities for enforcement of the Horse Protection Act. The enclosed statement describes the various provisions of the bill.

Primarily, the bill (a) revises the criteria for identifying a sore horse, including the elimination of the need to establish intent; (b) extends jurisdiction of the law over horses in intrastate commerce; (c) includes horse sales and auctions, and assigns increased statutory responsibility to the managers of horse shows, exhibitions, sales or auctions to prevent the showing or selling of sored horses; (d) authorizes the seizure of equipment, devices, etc., for use as evidence in prosecutions; (e) expands the provisions of the current law concerning prohibited conduct; (f) provides for the disqualification and/or detention of individual horses; (g) increases civil and criminal penalties for violations with particular provisions for repeated violations; (h) provides for disqualification of persons from showing, exhibiting, judging or managing a horse show, exhibition, sale or auction if found guilty of a violation of the Act or assessed a civil penalty with particular provisions for repeat violators; (i) provides subpoena power for administrative proceedings and enforcement thereof; and (j) increases maximum annual fund authorization.

The lack of adequate funds and manpower has been a major limitation in our efforts to enforce the present law. To conduct the measures authorized under S. 811, we will need additional appropriations of \$400,000 annually. This will provide a total of \$500,000 which is the maximum amount authorized. Also, we will need additional manpower, as we cannot possibly fulfill our additional responsibilities by utilizing existing personnel.

Sincerely,

  
RICHARD L. FELTNER  
Assistant Secretary

Enclosure

Department of Justice  
Washington, D.C. 20530

June 29, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill (S. 811), "To revise and extend the Horse Protection Act of 1970."

The enrolled bill prohibits the movement of sore horses in commerce; prohibits the showing of horses with an "unsound limb"; prohibits the sale at a public auction or the showing of horses that have been sored; and prohibits the showing of, or the sale at public auction of, horses that are wearing or bearing devices, paraphernalia, or substances which the Secretary of Agriculture bans because they are usually used to make a horse sore or unsound. The bill further requires any person who is responsible for organizing, directing, or administering a horse show, horse exhibition, or public horse sale or auction to disqualify sore horses, or to disqualify therefrom horses found to be sore or to have an unsound limb by a qualified person (i.e., a veterinarian), appointed by management to inspect horses "before, during, and after" such show, exhibition, sale, or auction. The management of such shows, exhibitions, sales, and auctions is further required to keep records, subject to inspection by designated agents of the U.S. Department of Agriculture. Penalties are prescribed for those who engage in conduct prohibited by the bill, including a possible 6-month jail term after a trial before a U.S. magistrate and disqualification from participating in further horse shows, exhibitions, and sales for a period to be prescribed.

The Department of Justice defers to the Department of Agriculture regarding Executive action on this legislation.

Sincerely,  
  
Michael M. Uhlmann  
Assistant Attorney General

Rec. 7/8/76 - 12 noon

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 8

Time: noon

FOR ACTION: Paul Leach  
Max Friedersdorf  
Ken Lazarus  
Robert Hartmann

cc (for information): Jack Marsh  
Jim Cavanaugh  
Ed Schmults  
Judy Hope

FROM THE STAFF SECRETARY

DUE: Date: July 9

Time: noon

SUBJECT: S. 811- Horse Protection Act Amendments

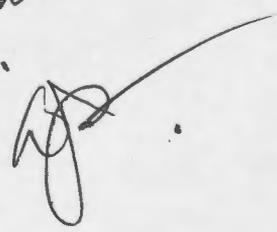
ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*7/8/76 - copy sent for recording. my  
I have several reservations about the  
quality of this message.*




PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

James M. Cannon

THE WHITE HOUSE  
WASHINGTON

Editorial changes checked with  
Tom Grumbly, OMB, who  
wrote statement.

Judy 7/12

STATEMENT BY THE PRESIDENT

I have approved S. 811 which provides amendments to the Horse Protection Act of 1970.

This Act is intended to ban the clearly inhumane practice of intentionally injuring the limbs and hoofs of horses in order to induce the high-stepping gait looked for in certain horse show events.

The amendments contained in S. 811 strengthen the Act in some respects. Unfortunately, however, the approach that the Congress continues to take to eradicate this heinous practice fails to comprehend the ~~practical aspects~~ problem.

The practice exists, quite simply, because its perpetrators can make a profit ~~in~~ in the horse show circuit ~~by~~ by short-cutting the careful breeding and patient training ~~techniques~~ <sup>techniques which are normally</sup> otherwise required to produce high quality show prospects.

Accordingly, ~~until~~ <sup>until</sup> the management of ~~both~~ public horse shows and sales assumes -- or is forced by law to assume -- the responsibility of ensuring that these cruelties are not being practiced upon those horses taking part in their sponsored events, real reform ~~cannot~~ <sup>will not</sup> be assured.

The Department of Agriculture urged the Congress to place the onus on the industry where it belongs, ~~and not,~~ <sup>rather than</sup> primarily ~~on~~ <sup>upon</sup> Federal regulators. The proposal would have required that the management of every show put in place an inspection system -- using independent, qualified inspectors -- under penalty of law. The Department ~~would~~ <sup>could</sup> then monitor the industry to ensure that the system operated properly.

*However,*  
~~But~~ the Congress -- in <sup>a mistaken</sup> ~~the vain~~ belief that <sup>the addition of</sup> more Federal enforcement officials ~~will help~~ <sup>will solve the problem</sup> -- has ignored the real problem <sup>and simply</sup> ~~authorizing~~ more money and stiffening ~~ed~~ penalties. ~~The plain fact is that there can never be enough Federal inspectors to check every animal -- or even every show.~~

I continue to be committed to achieving <sup>meaningful</sup> ~~real~~ reform by compelling this industry ~~to police itself~~ ~~with personal~~ responsibility on the individuals who manage it.

*one of*

*properly. ~~to~~ ~~that~~ ~~end~~ I*  
 I pledge cooperation with the Congress in ~~working~~ ~~toward that end.~~

*seeking continued improvements in the law which will place the <sup>primary</sup> responsibility for enforcement with the industry itself.*

7/13

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

To: J. Conaway  
7-8-76  
noon



JUL 8 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 811 - Horse Protection Act Amendments of 1976  
Sponsors - Sen. Tunney (D) California and 18 others

Last Day for Action

July 13, 1976 - Tuesday

Purpose

Strengthens the statutory authorities for enforcement of the Horse Protection Act and authorizes appropriations of (a) \$125,000 for the transition quarter and (b) \$500,000 for each fiscal year thereafter.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Agriculture	Approval
Department of Justice	Defers to Agriculture

Discussion

The Horse Protection Act of 1970 was enacted in an attempt to stop the inhumane practice of soring horses by making it unlawful to exhibit or show sored horses that move in interstate commerce (horse sales or auctions were not covered by the Act). Agriculture is responsible for enforcing this law.

Typically, the gait of a sored horse is altered through the use of chemicals, devices, and other quick and artificial methods instead of through careful breeding and patient training.

HORSE PROTECTION ACT  
AMENDMENTS OF 1975

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REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 811

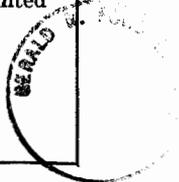
TO AMEND THE HORSE PROTECTION ACT OF 1970 TO  
BETTER EFFECTUATE ITS PURPOSES



OCTOBER 8 (legislative day, SEPTEMBER 11) 1975.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1975



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(ii)

HORSE PROTECTION ACT AMENDMENTS OF 1975

OCTOBER 8 (legislative day, SEPTEMBER 11) 1975.—Ordered to be printed

Mr. TUNNEY, from the Committee on Commerce,  
 submitted the following

REPORT

[To accompany S. 811]

The Committee on Commerce, to which was referred the bill (S. 811), to amend the Horse Protection Act of 1970 to better effectuate its purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

PURPOSE

It is the purpose of this bill to stop an inhumane and harmful practice that the Congress thought would end when it enacted the Horse Protection Act of 1970 (Public Law 91-54), but which has not in fact ended. This practice involves altering the gait of a horse by deliberate injury ("soring") instead of by patient training and careful breeding, in order to assure that the horse has the distinctive high-stepping gait of the popular and profitable Tennessee walking horse. This bill would amend the 1970 Act to make it more effective.

DESCRIPTION

The bill proposes to achieve its purpose by prohibiting the movement of sore horses in commerce; by prohibiting the showing of horses with an "unsound limb"; by prohibiting the sale at a public auction or the showing of horses that have been sored; and by prohibiting the showing of, or the sale at public auction of, horses that are wearing or bearing devices, paraphernalia, or substances which the Secretary of Agriculture bans because they are usually used to make a horse sore or unsound. The bill further requires any person who is responsible for organizing, directing, or administering a horse show, horse exhibition, or public horse sale or auction to disqualify sore horses, or to disqualify therefrom horses found to be sore or to have an unsound

limb by a qualified person (i.e., a veterinarian) appointed by management to inspect horses "before, during, and after" such show, exhibition, sale, or auction. The management of such shows, exhibitions, sales, and auctions is further required to keep records, subject to inspection by designated agents of the U.S. Department of Agriculture. Heavy penalties are prescribed for those who engage in conduct prohibited by the legislation, including a possible 6-month jail term after a trial before a U.S. magistrate and disqualification from participating in further horse shows, exhibitions, and sales for a period to be prescribed. Necessary enforcement powers are granted to the Secretary of Agriculture.

#### NEED

The Tennessee walking horse, distinguished by a high skipping gait or walk, is an exceedingly popular show horse. The horse is shown or exhibited for profit as well as for the pleasure of its owners. A multimillion-dollar industry has developed around the breeding of these horses.

The horse's distinctive walk has been achieved through patient, careful training and breeding. However, the walk may also be developed artificially. If a horse's front feet are deliberately made sore, intense pain suffered by the animal when his forefeet touch the ground cause him to lift them up quickly and thrust them forward, reproducing exactly the desired gait. A horse may be made sore by applying a blistering agent, such as oil of mustard to the pastern area of the horse's leg, or by applying various devices, such as chains or metal rollers, to the pastern area. The sore area may then be disguised by a device which hides the soring (but which increases the animal's pain).

The practice of soring to produce a distinctive walk is a particularly cruel and inhumane one. It has also economically disrupted the walking horse industry. With increasing frequency, callous trainers and owners have sored horses in order to achieve the desired gait and to win a blue ribbon. Those who refuse to sore their horses may not be able to compete successfully against the sore horses unless they either withdraw from competition or devote their attention to a different breed of horse. As more withdraw from competition, the breed itself begins to suffer. If a champion is created by means of soring, the practice will over a period of time weaken the breed's natural ability to walk in this distinctive fashion.

The inhumanity of the practice of soring and its destructive effect upon the walking horse industry led Congress to pass the Horse Protection Act of 1970 (Public Law 91-54; 84 Stat. 1404). The 1970 Act was designed to end the practice of soring horses by making it unlawful to show or exhibit a sored horse and by imposing significant penalties for violations. The 1970 Act was intended to make it impossible for a person to show a sored horse. Such a prohibition, if effectively implemented and enforced, would eliminate the incentive which leads owners and trainers to painfully mistreat the walking horse.

Unfortunately, this result has not been achieved. Witnesses at oversight hearings held by the Committee on Commerce in the 93d Congress, and comments received by the committee in the 94th Congress produced overwhelming evidence that soring continued to be widely practiced even after the passage of the 1970 Act.

The committee found that the 1970 Act's effectiveness was vitiated by limitations on the enforcement authority granted to the Secretary of Agriculture, and that the penalties for violation were insufficient to deter owners and trainers from continuing the cruel practice. In the absence of an inspection system, sored horses continued to compete successfully in horse shows and horse exhibitions.

The committee has determined that the amendments described herein are necessary to render the 1970 Act enforceable and effective. It is expected that it will be utilized, and utilized successfully, for the purpose of eliminating the practice of soring. However, the amendments do not grant carte blanche authority to the Department of Agriculture. Its efforts to eliminate the intentional injuring of horses should not be expanded to affect their competitive position within the walking horse class.

#### LEGISLATIVE HISTORY

Following oversight hearings in the 93d Congress, Senators Magnuson and Tunney introduced S. 2093, a bill to strengthen the Horse Protection Act of 1970. On October 8, 1974, the bill was ordered reported favorably by the committee with an amendment in the nature of a substitute, and on October 17, 1974, it was reported to the Senate. On November 20, 1974, the bill was passed by the Senate. The Senate-passed bill was referred to the House Committee on Interstate and Foreign Commerce, but the 93d Congress adjourned sine die before action could be taken by the House.

The bill that passed the Senate in 1974 was reintroduced in the 94th Congress by Senator Tunney (for himself and Senator Magnuson). After a period for the submission of written comments, the bill was considered by the committee in executive session and on July 30, 1975, it was ordered to be reported favorably with amendments.

#### SECTION-BY-SECTION ANALYSIS

##### SECTION 1

This section sets forth the short title of the bill ("Horse Protection Act Amendments for 1975").

##### SECTION 2

This section amends section 1 of the Horse Protection Act of 1970 (hereinafter the "1970 Act") to change the short title of the organic Act from the "Horse Protection Act of 1970" to the "Horse Protection Act."

##### SECTION 3

This section amends section 2 of the 1970 Act to define the operative terms used in the Act. The most significant changes made are: (1) the adoption of the word "sore" to define certain treatment of a horse made unlawful under the Act. The 1970 Act adopted the term "sored" to describe a horse which had been injured by various means with the intent to affect its gait. This bill removes the requirement that a horse, for example, to which has been applied an irritating or blistering

agent which has the consequence of causing physical pain or physical distress to the horse be so injured with a particular intent in order for it to be found sore. In addition, for the purposes of the Act, a horse is to be considered sore if it manifests abnormal sensitivity of the hoof, pastern, or fetlock. The section also adds the new term "unsound limb" to describe any condition in any limb of a horse that results in, or reasonably can be expected to result in, physical pain, physical distress, inflammation, or lameness to the horse when it is walking, trotting, or otherwise moving.

The 1970 Act placed a strong burden upon the Department of Agriculture's enforcement officials to prove that a horse had been injured as a result of a particular intent or through use of a particular device or method. Since the intent of the Act was to protect injured horses, it is the belief of the committee that the above changes in the operative definitions of the Act will facilitate preventing the exhibition of horses which have been injured to effect the gait of the horse, regardless of whether the intent to so injure can be shown.

#### SECTION 4

This section amends section 3 of the 1970 Act. It outlines the congressional findings as to the cruel, inhumane, and unfair practices to be eliminated.

#### SECTION 5

This section amends section 4 of the 1970 Act. This section specifies the duties of parties subject to regulation under the Act. This provision requires the management of a horse show or horse exhibition to disqualify any horse which is sore or which has any unsound limb from being shown or exhibited and to prohibit the sale or auction of any horse which is sore or, in the alternative, to appoint and retain a person qualified to detect and diagnose a sore horse and a horse with any unsound limb (other than a person who has been disqualified by the Secretary) to inspect horses for purposes of the Horse Protection Act. If management accepts the alternative and appoints such a qualified person, it must disqualify from being shown or exhibited any horse which, in the opinion of that person, is sore or has any unsound limb or limbs and, in the case of a public horse sale or auction, management must prohibit the sale of any horse which, in the opinion of such a qualified person, is sore. Management shall maintain such records as the Secretary shall, after hearing, require by regulation. In addition, the section authorizes the Secretary to inspect any horse show, exhibition, public horse sale or auction and to inspect and copy all such records as are required to be kept under this section.

#### SECTION 6

This section amends section 5 of the 1970 Act, and defines the conduct prohibited by the bill. The section prohibits shipping, transporting, moving, delivering, or receiving any horse which is sore (except a horse which is sore as a result of veterinary medicine treatment) where there is reason to believe that the horse may be shown, exhibited, or entered in a horse show, exhibition, sale, or auction. The provi-

sion does not apply to a person engaged in the transport of horses for hire unless such person has "reason to believe" that the horse is sore.

The section, as amended by the bill also prohibits showing, exhibiting, or entering any horse in such an event for the purpose of showing, exhibiting, selling, or auctioning, if the horse is sore. It further prohibits a horse being shown or exhibited by any person who has been advised (by a qualified inspector, management, or a representative of the Secretary) that the horse has an unsound limb. The section also makes it a prohibited act for the management of a horse show, exhibition, sale, or auction to fail to disqualify any horse which is sore or which has an unsound limb from being shown or exhibited, to fail to prohibit the public sale or auction of any horse which is sore, and, in the case of management which appoints and retains a qualified expert to inspect horses pursuant to this legislation, to fail to disqualify or prohibit horses from being shown, exhibited, sold, or auction upon the findings of such experts. It is also a prohibited act to show, exhibit, sell, offer for sale, or auction any horse which is wearing or bearing any device, paraphernalia or substance which the Secretary of Agriculture, by regulation, bars in order to prevent the practice of soring. It is also a prohibited act, under amended section 5 of the Horse Protection Act, to fail to keep or submit to the Secretary required records, notices, reports, and other materials; to refuse to permit government inspection to determine compliance with this law; or to fail to provide adequate space or facilities for the Secretary of Agriculture to use to carry out his inspection and enforcement functions.

#### SECTION 7

This section amends section 6 of the 1970 Act, regarding enforcement and criminal punishments, civil penalties, and other sanctions for noncompliance.

Subsection (a) makes it a crime to "knowingly" engage in any of the prohibited conduct defined in the preceding section of the Act. The maximum penalty, upon conviction, is a fine of \$3,000 and a prison sentence of 6 months. Such an action may be prosecuted before any U.S. magistrate in any appropriate Federal district court. The U.S. magistrates are expressly granted jurisdiction to hear and decide such criminal actions.

Subsection (b) authorizes the imposition of civil penalties, to be assessed by the Secretary of Agriculture upon a finding that any of the prohibited acts have been committed. The imposition of such a penalty can be appealed or, where necessary, collection can be enforced by the appropriate Federal court. The Secretary may compromise or remit, with or without conditions, any such penalty.

Subsection (c) authorizes the Secretary, after notice and an opportunity for a hearing, to disqualify any person who is convicted of a criminal violation or found to have committed a civil violation of this Act or any regulation thereunder from future horse shows, horse exhibitions, public horse sales and auctions (as judge, manager, or exhibitor) for a period of up to 1 year for a first offense and not less than 1 year for each subsequent offense. Civil penalties are to be assessed for any violation of such a disqualification order.

Subsection (d) sets forth procedural requirements and authorities pertinent to enforcement, including authority in the Secretary to obtain witnesses and to penalize failure to comply with procedures.

Subsection (e) permits the Secretary to detain for up to 24 hours for complete examination a horse which is sore or suspected of being sore; to disqualify a horse from being shown or exhibited if he has probable cause to believe the horse is sore or has an unsound limb; to prohibit a horse from being sold at a public horse show or auction if he has probable cause to believe the horse is sore; and to seize any equipment, device, paraphenalia, or substance in violation of regulations or if he has probable cause to believe they contributed to the soring of any horse.

#### SECTION 8

This section amends section 11 of the 1970 Act to require the Secretary to submit annual rather than bi-annual reports on enforcement actions taken under this Act.

#### SECTION 9

This section authorizes appropriations to the Secretary for carrying out the provisions of the act not to exceed \$1 million for the fiscal years ending June 30, 1976, not to exceed \$250,000 for the transitional quarter ending September 30, 1976, and not to exceed \$1 million for the fiscal year ending September 30, 1977. It is the expectation of this committee that the annual appropriation necessary for the enforcement of this act will be decreased over the years if an effective enforcement program is instituted immediately by the Secretary.

#### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the standing rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

#### THE HORSE PROTECTION ACT OF 1970 (P.L. 91-540)

**[**That this Act may be cited as the "Horse Protection Act of 1970."**]**  
*That this Act may be cited as the "Horse Protection Act".*

**[**SEC. 2. (a) A horse shall be considered to be sored if, for the purpose of affecting its gait—

**[**(1) a blistering agent has been applied after the date of enactment of this Act internally or externally to any of the legs, ankles, feet, or other parts of the horse;

**[**(2) burns, cuts, or lacerations have been inflicted after the date of enactment of this Act on the horse;

**[**(3) a chemical agent, or tacks or nails have been used after the date of enactment of this Act on the horse; or

**[**(4) any other cruel or inhumane method or device has been used after the date of enactment of this Act on the horse, including, but not limited to, chains or boots;

which may reasonably be expected (A) to result in physical pain to the horse when walking, trotting, or otherwise moving, (B) to cause extreme physical distress to the horse, or (C) to cause inflammation.

**[**(b) As used in this Act, the term "commerce" means commerce between a point in any State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) and any point outside thereof, or between points within the same State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) but through any place outside thereof, or within the District of Columbia, or from any foreign country to any point within the United States.**]**

#### DEFINITIONS

SEC. 2. As used in this Act, unless the context otherwise requires—

(1) "commerce" means commerce among the several States or with foreign nations or in or through any State or between any State and foreign nation;

(2) "management" refers to any person who organizes, exercises control over, or is responsible for organizing, directing, or administering;

(3) "Secretary" means the Secretary of Agriculture, or his delegate;

(4) "sore", with respect to a horse, means that (a) an irritating or blistering agent has been applied, internally or externally, to any of its limbs; (b) any burn, cut, or laceration has been inflicted on any of its limbs; (c) any tack, nail, screw, or chemical agent has been injected into or used on any of its limbs; or (d) any other method or device has been used on any of its limbs, and, as a consequence of such application, infliction, injection, or other use, the subject of such use suffers, or reasonably can be expected to suffer, physical pain, physical distress, inflammation, or lameness when walking, trotting, or otherwise moving. A horse shall be considered sore if it manifests abnormal sensitivity of the hoof, pastern, or fetlock;

(5) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and any territory or possession of the United States; and

(6) "unsound limb", with respect to a horse, means any condition in any of its limbs that results in, or reasonably can be expected to result in, physical pain, physical distress, inflammation, or lameness to the horse when it is walking, trotting, or otherwise moving.

**[**SEC. 3. The Congress hereby finds (1) that the practice of soring horses for the purposes of affecting their natural gait is cruel and inhumane treatment of such animals; (2) that the movement of sored horses in commerce adversely affects and burdens such commerce; and (3) that horses which are sored compete unfairly with horses moved in commerce which are not sored.**]**

#### FINDINGS

SEC. 3. The Congress finds and declares that—

(1) the soring of horses is cruel and inhumane;

(2) horses shown or exhibited which are sore or which have any unsound limb, may, where such soreness or unsoundness im-

proves the performance of such horse, compete unfairly with horses which are not sore and which have sound limbs;

(3) the movement, showing, exhibition, or sale of sore horses in intrastate commerce adversely affects and burdens interstate or foreign commerce;

(4) the showing or exhibition of horses that have any unsound limb is cruel and inhumane and adversely affects and burdens interstate or foreign commerce;

(5) all horses which are subject to regulation under this Act are either in interstate or foreign commerce or substantially affect such commerce; and

(6) regulation by the Secretary is appropriate to prevent and eliminate burdens upon commerce and to effectively regulate commerce.

【SEC. 4. (a) It shall be unlawful for any person to ship, transport, or otherwise move, or deliver or receive for movement, in commerce, for the purpose of showing or exhibition, any horse which such person has reason to believe is sore.]

【(b) It shall be unlawful for any person to show or exhibit, or enter for the purpose of showing or exhibiting, in any horse show or exhibition any horse which is sore if that horse or any other horse was moved to such show or exhibition in commerce.

【(c) It shall be unlawful for any person to conduct any horse show or exhibition in which there is shown or exhibited a horse which is sore, if any horse was moved to such show or exhibition in commerce, unless such person can establish that he has complied with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the showing or exhibition of horse which have been sore.】

#### RESPONSIBILITIES

SEC. 4. (a) GENERAL.—(1) (A) The management of any horse show or horse exhibition shall disqualify any horse which is sore or which has any unsound limb from being shown or exhibited; and

(B) The management of any public horse sale or auction shall prohibit the sale or auction of any horse which is sore; or

(2) The management of any horse show, horse exhibition, or public horse sale or auction, in accordance with regulations which the Secretary shall issue, may appoint and retain any person who is qualified to detect and diagnose a sore horse and a horse with any unsound limb, other than a person who has been disqualified by the Secretary, after notice and an opportunity for a hearing, to inspect horses for purposes of this Act, at any place or at any time on the show or exhibition grounds and before, during and after the horses are shown, exhibited, or sold: Provided, That if any such qualified person is appointed by management (A) the management of any horse show or horse exhibition shall disqualify from being shown or exhibited any horse which, in the opinion of such qualified person, is sore or has an unsound limb or limbs; (B) the management of any public horse sale or auction shall prohibit the sale of any horse which, in the opinion of such qualified person, is sore.

(b) RECORDS.—Each person who organizes, promotes, directs, manages, or conducts a horse show, horse exhibition, or public horse sale

or auction shall keep such records relating thereto as the Secretary may by regulation prescribe. Such person shall submit to the Secretary, in such form and with such content as the Secretary shall prescribe, any notification, report, or other material relating to any matter regulated under this Act as the Secretary shall by regulation prescribe. Any such regulation and any amendment thereto shall be issued on the record after an opportunity for a hearing.

(c) INSPECTION.—The Secretary is authorized to conduct such inspections of any horse show, horse exhibition, or public horse sale or auction, or of any horse at any horse show, horse exhibition, or public horse sale or auction as he may by regulation prescribe or as he deems necessary for the effective enforcement of this Act. The Secretary is further authorized to inspect and copy, at all reasonable times, such records as are required to be kept under subsection (b) of this section.

【SEC. 5. (a) Any representative of the Secretary of Agriculture is authorized to make such inspections of any horses which are being moved, or have been moved, in commerce and to make such inspections of any horses at any horse show or exhibition within the United States to which any horse was moved in commerce, as he deems necessary for the effective enforcement of this Act, and the owner or other person having custody of any such horse shall afford such representative access to and opportunity to so inspect such horse.

【(b) The person or persons in charge of any horse show or exhibition within the United States, or such other person or persons as the Secretary of Agriculture (hereinafter referred to in this Act as the "Secretary") may by regulation designate, shall keep such records as the Secretary may by regulation prescribe. The persons or persons in charge of any horse show or exhibition, or such other person or persons as the Secretary may by regulation designate, shall afford the representatives of the Secretary access to and opportunity to inspect and copy such records at all reasonable times.】

#### PROHIBITED ACTS

SEC. 5. The following conduct is prohibited:

(1) shipping, transporting, moving, delivering, or receiving any horse which is sore except a horse which is sore as a result of therapeutic treatment by a person licensed to practice veterinary medicine in the State or political subdivision thereof in which such treatment was given, with reason to believe that the horse may be shown, exhibited, or entered for the purpose of being shown or exhibited, or sold, auctioned, or offered for sale, in any horse show, horse exhibition, or public horse sale or auction: Provided, That this provision shall not apply to an act performed by a person engaged in the transport of horses for hire in the course of such transport unless such person has reason to believe such horse is sore;

(2) showing, exhibiting, or entering for the purpose of showing or exhibiting, or selling, auctioning, or offering for sale, in any horse show, horse exhibition, or public horse sale or auction, any horse which is sore;

(3) showing, exhibiting, or allowing to be shown or exhibited, any horse, after having been advised by a qualified person, in ac-

cordance with section 4(a) (2) of this Act, management, or a representative of the Secretary that the horse has an unsound limb;

(4) failure by the management of any horse show or horse exhibition, which does not appoint and retain a qualified person in accordance with section 4(a) (2) of this Act to disqualify from being shown or exhibited any horse which is sore or which has any unsound limb;

(5) failure by the management of any public horse sale or auction, which does not appoint and retain a qualified person in accordance with section 4(a) (2) of this Act to prohibit the sale, offering for sale, or auction of any horse which is sore;

(6) failure by the management of any horse show or horse exhibition, which has appointed and retained a qualified person in accordance with section 4(a) (2) of this Act, to disqualify from being shown or exhibited any horse, which, in the opinion of such qualified person, is sore or has any unsound limb;

(7) failure by the management of any public horse sale or auction, which has appointed and retained a qualified person in accordance with section 4(a) (2) of this Act, to prohibit the sale, offering for sale, or auction of any horse which in the opinion of such qualified person, is sore;

(8) showing or exhibiting at a horse show or horse exhibition; selling or auctioning at a public horse sale or auction; allowing to be shown, exhibited, or sold at a horse show, horse exhibition, or public horse sale or auction; entering for the purpose of showing or exhibiting in any horse show or horse exhibition; or entering for the purpose of selling at a public horse sale or auction, any horse which is wearing or bearing any equipment, device, paraphernalia, or substance which the Secretary does not allow to be used on the limbs of a horse, in the interest of preventing the practices of soring and pursuant to regulations to be issued under this Act;

(9) failing to maintain or submit records, notices, reports, or other material required by this Act or regulations issued under this Act;

(10) refusing to permit the Secretary to enter and to conduct any inspection of any horse show, horse exhibition, or public horse sale or auction or of any horse at any horse show, horse exhibition, or public horse sale or auction, for purposes of determining compliance with this Act or any regulations issued under this Act; and

(11) failing to provide the Secretary with adequate space or facilities, as the Secretary may by regulation prescribe, in which to conduct inspections or any other activity authorized to be performed by the Secretary under this Act.

**[SEC. 6. (a)** Any person who violates any provision of this Act or any regulation issued thereunder, other than a violation the penalty for which is prescribed by subsection (b) of this section, shall be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed under this subsection, the Secretary shall request the

Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

**[ (b)** Any person who willfully violates any provision of this Act or any regulation issued thereunder shall be fined not more than \$2,000 or imprisoned not more than six months, or both. ]

#### ENFORCEMENT

**SEC. 6. (a) CRIMINAL VIOLATION.**—Except as otherwise provided in paragraphs (6) and (7) of subsection (d) of this section and in section 9 of this Act, any person who knowingly commits any act prohibited under section 5 of this Act shall be subject to criminal prosecution and upon conviction thereof, shall be fined not more than \$3,000, or imprisoned for not more than 6 months, or both. An action against such person may be brought before any United States magistrate in the district court of the United States in any judicial district in which such person is found, and such magistrate shall have jurisdiction to hear and decide such action. It shall be the duty of United States attorneys to prosecute all violations reported by the Secretary, or which come to their notice or knowledge by other means.

**(b) CIVIL ACTION.**—(1) Except as otherwise provided in subsection (d) (8) of this section, any person who commits any act prohibited under section 5 of this Act shall be liable to the United States for a civil penalty of not more than \$500 for each day of violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation. The amount of such civil penalty shall be assessed by the Secretary, or his delegate, by written notice. In determining the amount of such penalty, the Secretary shall take into account all factors relevant to such determination, including the nature, circumstances, extent, and gravity of the prohibited act or acts committed and, with respect to the person found to have committed such act or acts, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the appropriate court of appeals of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2) (e) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of

the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

(c) **DISQUALIFICATION.**—In addition to any fine, imprisonment, or civil penalty authorized under this Act, and person convicted or assessed a civil penalty for any violation of any provision of this Act or any regulation issued under this Act may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or public horse sale or auction, or participating in any horse show, horse exhibition, or public horse sale or auction, for a period of not more than one year for the first offense and not less than one year for any subsequent offense. Any person who knowingly fails to obey an order of disqualification shall be subject to a civil penalty of not more than \$1,000 for each offense. Each day during which such failure continues shall be a separate offense. Any horse show, horse exhibition, or public horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or otherwise to participate in any horse show, horse exhibition, or public horse sale or auction in violation of an order shall be subject to a civil penalty of not more than \$1,000 for each offense to be assessed by the Secretary in accordance with subsection (b) of this section. Each day during which the violation continues shall be a separate offense.

(d) **PROCEDURE.**—The Secretary may require by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents relating to any matter under investigation of the subject of a proceeding. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(2) The attendance of witnesses, and the production of books, papers, and documents, may be required at any designated place from any place in the United States. In case of disobedience to a subpoena, the Secretary, or any party to a proceeding before the Secretary, may invoke the aid of any appropriate district court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this Act.

(3) The Secretary may order testimony to be taken by deposition under oath in any proceeding or investigation pending before him, at any stage of the proceeding or investigation. Depositions may be taken before any person designated by the Secretary who has power to administer oaths. The Secretary may also require the production of books, papers, and documents at the taking of depositions.

(4) Witnesses whose depositions are taken and the persons taking them shall be entitled to the same fees as paid for like services in the courts of the United States or in other jurisdictions in which they may appear.

(5) Any person who knowingly neglects or refuses to attend and testify, or to produce books, papers, and documents in reply to a sub-

pena, or to submit a report required by the Secretary, shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than \$1,000, imprisoned for not more than 1 year, or both.

(6) Any person who willfully makes, or causes to be made, a false entry or statement in any report required under this Act; who willfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this Act or in any notification or other material required to be submitted to the Secretary under section 4(b) of this Act; who willfully neglects or fails to make, or cause to be made, full, true, and correct entries in such accounts, records, memoranda, notification, or other materials; who willfully removes any such documentary evidence of any person subject to this Act out of the jurisdiction of the United States; who willfully mutilates, alters, or by any other means falsifies any such documentary evidence of any person subject to this Act; or who willfully refuses to submit any such documentary evidence to the Secretary for inspection and making shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than 3 years, or both.

(7) If any person required by this Act to file an annual or special report fails to do so within the time fixed by the Secretary, and his failure continues for 30 days after notice of his default, he shall forfeit to the United States \$100 for each day such failure continues. Such forfeiture shall be recoverable in a civil suit in the name of the United States brought in any district where the person may be found, resides, or transacts business.

(8) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in sections 6(b) and (c) of this Act.

(e) **DETENTION AND SEIZURE.**—The Secretary is authorized to—

(1) detain for further examination any horse at any horse show, horse exhibition, or public horse sale or auction, which is sore, or which is suspected by the Secretary of being sore, for a period not to exceed 24 hours.

(2) disqualify from competition at any horse show or horse exhibition any horse which he has probable cause to believe is sore or has any unsound limb;

(3) prohibit the sale of any horse at any public horse sale or auction which he has probable cause to believe is sore;

(4) seize any equipment, device, paraphernalia, or substance which he has probable cause to believe was used in violation of any provision of this Act or any regulation issued under this Act or which has probable cause to believe contributed to the soiling of any horse at or prior to any horse show, horse exhibition, or public horse sale or auction.

SEC. 11. On or before the expiration of thirty calendar months following the date of enactment of this Act, and every [twenty-four-calendar-month period] 12-calendar month period thereafter, the Sec-

retary shall submit to the Congress a report upon the matters covered by this Act, including enforcement and other actions taken thereunder, together with such recommendations for legislative and other action as he deems appropriate.

SEC. 12. [There are hereby authorized to be appropriated such sums, not to exceed \$100,000 annually, as may be necessary to carry out the provision of this Act.] *There are authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this Act not to exceed \$1,000,000 for the fiscal year ending June 30, 1976, \$250,000 for the fiscal year transition period ending September 30, 1976, and \$1,000,000 for the fiscal year ending September 30, 1977.*

#### ESTIMATED COSTS

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the Committee estimates the cost of the proposed legislation will be as follows:

Fiscal year:	
1976	\$1,000,000
Transitional quarter	250,000
1977	1,000,000

#### TEXT OF S. 811, AS REPORTED

A BILL To amend the Horse Protection Act of 1970 to better effectuate its purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*  
That this Act may be cited as the "Horse Protection Act Amendments of 1975".

SEC. 2. Section 1 of the Horse Protection Act of 1970 (Public Law 91-540) is amended to read as follows: "That this Act may be cited as the 'Horse Protection Act'".

SEC. 3. Section 2 of the Horse Protection Act of 1970 (15 U.S.C. 1821) is amended to read as follows:

#### "DEFINITIONS

"SEC. 2. As used in this Act, unless the context otherwise requires—

"(1) 'commerce' means commerce among the several States or with foreign nations or in or through any State or between any State and foreign nation;

"(2) 'management' refers to any person who organizes, exercises control over, or is responsible for organizing, directing, or administering;

"(3) 'Secretary' means the Secretary of Agriculture, or his delegate;

"(4) 'sore', with respect to a horse, means that (A) an irritating or blistering agent has been applied, internally or externally, to any of its limbs; (B) any burn, cut, or laceration has been inflicted on any of its limbs; (C) any tack, nail, screw, or chemical agent has been injected into or used on any of its limbs; or (D) any other method or device has been used on any of its limbs, and,

as a consequence of such application, infliction, injection, or other use, the subject of such use suffers, or reasonably can be expected to suffer, physical pain, physical distress, inflammation, or lameness when walking, trotting, or otherwise moving. A horse shall be considered sore if it manifests abnormal sensitivity of the hoof, pastern, or fetlock;

"(5) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and any territory or possession of the United States; and

"(6) 'unsound limb', with respect to a horse, means any condition in any of its limbs that results in, or reasonably can be expected to result in, physical pain, physical distress, inflammation, or lameness to such horse when it is walking, trotting, or otherwise moving."

SEC. 4. (a) GENERAL.—(1) (A) Section 3 of the Horse Protection Act of 1970 (15 U.S.C. 1822) is amended to read as follows:

#### "FINDINGS

"SEC. 3. The Congress finds and declares that—

"(1) the soring of horses is cruel and inhumane;

"(2) horses shown or exhibited which are sore or which have any unsound limb, may, where such soreness or unsoundness improves the performance of such horse, compete unfairly with horses which are not sore and which have sound limbs;

"(3) the movement, showing, exhibition, or sale of sore horses in intrastate commerce adversely affects and burdens interstate or foreign commerce;

"(4) the showing or exhibition of horses that have any unsound limb is cruel and inhumane and adversely affects and burdens interstate or foreign commerce;

"(5) all horses which are subject to regulation under this Act are either in interstate or foreign commerce or substantially affect such commerce; and

"(6) regulation by the Secretary is appropriate to prevent and eliminate burdens upon commerce and to effectively regulate commerce."

SEC. 5. Section 4 of the Horse Protection Act of 1970 (15 U.S.C. 1823) is amended to read as follows:

#### "RESPONSIBILITIES

"SEC. 4. (a) GENERAL.—(1) (A) The management of any horse show or horse exhibition shall disqualify any horse which is sore or which has an unsound limb from being shown or exhibited; and

"(B) The management of any public horse sale or auction shall prohibit the sale or auction of any horse which is sore; or

"(2) The management of any horse show, horse exhibition, or public horse sale or auction, in accordance with regulations which the Secretary shall issue, may appoint and retain any person who is qualified to detect and diagnose a sore horse and a horse with any unsound limb, other than a person who has been disqualified by the Secretary, after notice and an opportunity for a hearing, to inspect horses for purposes of this Act, at any place or at any time on the show or exhibi-

tion grounds and before, during and after the horses are shown, exhibited, or sold: *Provided*, That if any such qualified person is appointed by management (A) the management of any horse show or horse exhibition shall disqualify from being shown or exhibited any horse which, in the opinion of such qualified person, is sore or has an unsound limb or limbs; and (B) the management of any public horse sale or auction shall prohibit the sale of any horse which, in the opinion of such qualified person, is sore.

“(b) RECORDS.—Each person who organizes, promotes, directs, manages, or conducts a horse show, horse exhibition, or public horse sale or auction shall keep such records relating thereto as the Secretary may by regulation prescribe. Such person shall submit to the Secretary, in such form and with such content as the Secretary shall prescribe, any notification, report, or other material relating to any matter regulated under this Act as the Secretary shall by regulation prescribe. Any such regulation and any amendment thereto shall be issued on the record after an opportunity for a hearing.

“(c) INSPECTION.—The Secretary is authorized to conduct such inspection, of any horse show, horse exhibition, or public horse sale or auction, or of any horse at any horse show, horse exhibition, or public horse sale or auction, as he may by regulation prescribe or as he deems necessary for the effective enforcement of this Act. The Secretary is further authorized to inspect and copy, at all reasonable times, such records as are required to be kept under subsection (b) of this section.”

SEC. 6. Section 5 of the Horse Protection Act of 1970 (15 U.S.C. 1824) is amended to read as follows:

“PROHIBITED ACTS

“SEC. 5. The following conduct is prohibited:

“(1) shipping, transporting, moving, delivering, or receiving any horse which is sore (except a horse which is sore as a result of therapeutic treatment by a person licensed to practice veterinary medicine in the State or political subdivision thereof in which such treatment was given), with reason to believe that such horse may be shown, exhibited, or entered for the purpose of being shown or exhibited, or sold, auctioned, or offered for sale, in any horse show, horse exhibition, or public horse sale or auction: *Provided*, That this provision shall not apply to an act performed by a person engaged in the transport of horses for hire in the course of such transport unless such person has reason to believe such horse is sore;

“(2) showing, exhibiting, or entering for the purpose of showing or exhibiting, or selling, auctioning, or offering for sale, in any horse show, horse exhibition, or public horse sale or auction, any horse which is sore;

“(3) showing, exhibiting, or allowing to be shown or exhibited, any horse, after having been advised by a qualified person, in accordance with section 4(a)(2) of this Act, management, or a representative of the Secretary that the horse has an unsound limb;

“(4) failure by the management of any horse show or horse exhibition, which does not appoint and retain a qualified person in accordance with section 4(a)(2) of this Act, to disqualify from

being shown or exhibited any horse which is sore or which has any unsound limb;

“(5) failure by the management of any public horse sale or auction, which does not appoint and retain a qualified person in accordance with section 4(a)(2) of this Act, to prohibit the sale, offering for sale, or auction of any horse which is sore;

“(6) failure by the management of any horse show or horse exhibition, which has appointed and retained a qualified person in accordance with section 4(a)(2) of this Act, to disqualify from being shown or exhibited any horse, which, in the opinion of such qualified person, is sore or has any unsound limb;

“(7) failure by the management of any public horse sale or auction, which has appointed and retained a qualified person in accordance with section 4(a)(2) of this Act, to prohibit the sale, offering for sale, or auction of any horse which, in the opinion of such qualified person, is sore;

“(8) showing or exhibiting at a horse show or horse exhibition; selling or auctioning at a public horse sale or auction; allowing to be shown, exhibited, or sold at a horse show, horse exhibition, or public horse sale or auction; entering for the purpose of showing or exhibiting in any horse show or horse exhibition; or entering for the purpose of selling at a public horse sale or auction, any horse which is wearing or bearing any equipment, device, paraphernalia, or substance which the Secretary does not allow to be used on the limbs of a horse, in the interest of preventing the practice of soring and pursuant to regulations to be issued under this Act;

“(9) failing to maintain or submit records, notices, reports, or other material required by this Act or regulations issued under this Act;

“(10) refusing to permit the Secretary to enter and to conduct any inspection of any horse show, horse exhibition, or public horse sale or auction, or of any horse at any horse show, horse exhibition, or public horse sale or auction, for purposes of determining compliance with this Act or any regulations issued under this Act; and

“(11) failing to provide the Secretary with adequate space or facilities, as the Secretary may by regulation prescribe, in which to conduct inspections or any other activity authorized to be performed by the Secretary under this Act.”

SEC. 7. Section 6 of the Horse Protection Act of 1970 (15 U.S.C. 1825) is amended to read as follows:

“ENFORCEMENT

“SEC. 6. (a) CRIMINAL VIOLATION.—Except as otherwise provided in paragraphs (6) and (7) of subsection (d) of this section and in section 9 of this Act, any person who knowingly commits any act prohibited under section 5 of this Act shall be subject to criminal prosecution and, upon conviction thereof, shall be fined not more than \$3,000, or imprisoned for not more than 6 months, or both. An action against such person may be brought before any United States magistrate in the district court of the United States in any judicial district in which such person is found, and such magistrate shall have jurisdiction to hear and decide such action. It shall be the duty of United

States attorneys to prosecute all violations reported by the Secretary, or which come to their notice or knowledge by other means

“(b) CIVIL ACTION.—(1) Except as otherwise provided in subsection (d) (8) of this section, any person who commits any act prohibited under section 5 of this Act shall be liable to the United States for a civil penalty of not more than \$500 for each day of violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation. The amount of such civil penalty shall be assessed by the Secretary, or his delegate, by written notice. In determining the amount of such penalty, the Secretary shall take into account all factors relevant to such determination, including the nature, circumstances, extent, and gravity of the prohibited act or acts committed and, with respect to the person found to have committed such act or acts, the degree of culpability, any history or prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

“(2) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the appropriate court of appeals of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2)(e) of title 5, United States Code.

“(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

“(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

“(c) DISQUALIFICATION.—In addition to any fine, imprisonment, or civil penalty authorized under this Act, any person convicted or assessed a civil penalty for any violation of any provision of this Act or any regulation issued under this Act may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or public horse sale or auction, or participating in any horse show, horse exhibition, or public horse sale or auction, for a period of not more than one year for the first offense and not less than one year for any subsequent offense. Any person who knowingly fails to obey an order of disqualification shall be subject to a civil penalty of not more than \$1,000 for each offense. Each day during which such failure continues shall be a separate offense. Any horse show, horse exhibition, or public horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or

otherwise to participate in any horse show, horse exhibition, or public horse sale or auction in violation of an order shall be subject to a civil penalty of not more than \$1,000 for each offense, to be assessed by the Secretary in accordance with subsection (b) of this section. Each day during which the violation continues shall be a separate offense.

“(d) PROCEDURE.—(1) The Secretary may require by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents relating to any matter under investigation or the subject of a proceeding. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States:

“(2) The attendance of witnesses, and the production of books, papers, and documents, may be required at any designated place from any place in the United States. In case of disobedience to a subpoena the Secretary, or any party to a proceeding before the Secretary, may invoke the aid of any appropriate district court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this Act.

“(3) The Secretary may order testimony to be taken by deposition under oath in any proceeding or investigation pending before him, at any stage of the proceeding or investigation. Depositions may be taken before any person designated by the Secretary who has power to administer oaths. The Secretary may also require the production of books, papers, and documents at the taking of depositions.

“(4) Witnesses whose depositions are taken and the persons taking them shall be entitled to the same fees as paid for like services in the courts of the United States or in other jurisdictions in which they may appear.

“(5) Any person who knowingly neglects or refuses to attend and testify, or to produce books, papers, and documents in reply to a subpoena, or to submit a report required by the Secretary, shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than \$1,000, imprisoned for not more than 1 year, or both.

“(6) Any person who willfully makes, or causes to be made, a false entry or statement in any report required under this Act; who willfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this Act or in any notification or other material required to be submitted to the Secretary under section 4(b) of this Act; who willfully neglects or fails to make, or cause to be made, full, true, and correct entries in such accounts, records, memoranda, notification, or other materials; who willfully removes any such documentary evidence of any person subject to this Act out of the jurisdiction of the United States; who willfully mutilates, alters, or by any other means falsifies any such documentary evidence of any person subject to this Act; or who willfully refuses to submit any such documentary evidence to the Secretary for inspection and making shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than 3 years, or both.

“(7) If any person required by this Act to file an annual or special report fails to do so within the time fixed by the Secretary, and his failure continues for 30 days after notice of his default, he shall forfeit to the United States \$100 for each day such failure continues. Such forfeiture shall be recoverable in a civil suit in the name of the United

States brought in any district where the person may be found, resides, or transacts business.

“(8) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in sections 6 (b) and (c) of this Act.

“(e) DETENTION AND SEIZURE.—The Secretary is authorized to—

“(1) detain for further examination any horse at any horse show, horse exhibition, or public horse sale or auction which is sore, or which is suspected by the Secretary of being sore, for a period not to exceed 24 hours;

“(2) disqualify from competition at any horse show or horse exhibition any horse which he has probable cause to believe is sore or has any unsound limb;

“(3) prohibit the sale of any horse at any public horse sale or auction which he has probable cause to believe is sore;

“(4) seize any equipment, device, paraphernalia, or substance which he has probable cause to believe was used in violation of any provision of this Act or any regulation issued under this Act or which he has probable cause to believe contributed to the soring of any horse at or prior to any horse show, horse exhibition, or public horse sale or auction.”

SEC. 8. Section 11 of the Horse Protection Act of 1970 (15 U.S.C. 1830) is amended by striking out “twenty-four-calendar-month period” and inserting in lieu thereof “12-calendar-month period”.

SEC. 9. Section 12 of the Horse Protection Act of 1970 (15 U.S.C. 1831) is amended to read as follows: “There are authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this Act not to exceed \$1,000,000 for the fiscal year ending June 30, 1976, \$250,000 for the fiscal year transition period ending September 30, 1976, and \$1,000,000 for the fiscal year ending September 30, 1977.”

SEC. 10. The Horse Protection Act of 1970 (15 U.S.C. 1831 et seq.) is amended by adding at the end thereof the following new section:

“Sec. 3. Any person who forcibly assaults, resists, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than \$5,000, or imprisoned not more than 2 years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than 10 years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punishable as provided under sections 1111 and 1114 of title 8, United States Code.”

#### AGENCY COMMENTS

Comments on S. 811 were requested from the Department of Agriculture on April 7, 1975. As of the date the bill was ordered to be reported, no agency comments had been received by the committee. The Department of Agriculture supported the equivalent bill in the 93d Congress (S. 2093). See Senate Report No. 93-1282, pp. 21-30.

HORSE PROTECTION ACT  
AMENDMENTS OF 1976

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REPORT

(Including the Congressional Budget Office Cost Estimate)

BY THE

COMMITTEE ON INTERSTATE AND  
FOREIGN COMMERCE

[To accompany H.R. 13711]



MAY 15, 1976.—Committed to the Committee of the Whole House on  
the State of the Union and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

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(II)

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
2d Session } { No. 94-1174

HORSE PROTECTION ACT AMENDMENTS OF 1976

MAY 15, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

(Including the Congressional Budget Office cost estimate)

[To accompany H.R. 13711]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 13711) to revise and extend the Horse Protection Act of 1970, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 4, line 12, strike out "public".

Page 7, line 9, strike out "public".

Page 16, strike out lines 16 through 19 and insert in lieu thereof the following:

SEC. 10. Effective July 1, 1976, section 12 (15 U.S.C. 1831) is amended to read as follows:

"SEC. 12. There are authorized to be appropriated to carry out this Act \$125,000 for the period beginning July 1, 1976, and ending September 30, 1976; and for the fiscal year beginning October 1, 1976, and for each fiscal year thereafter there are authorized to be appropriated such sums, not to exceed \$500,000, as may be necessary to carry out this Act."

SUMMARY OF LEGISLATION

H.R. 13711, as reported, provides for a revision and extension of the existing program of the Department of Agriculture relating to horse protection at a total annual authorization level of \$500,000. The legislation makes the following substantive modifications in the existing law governing this program:

(1)

1. Revises the definition of "sore" under existing law to eliminate the requirement that the soring of a horse must be done with the specific intent or purpose of affecting its gait.

2. Provides that a horse shall be presumed to be sore if it manifests abnormal sensitivity or inflammation in both of its forelimbs or both of its hindlimbs.

3. Requires the management of any horse show or exhibition to disqualify from being shown or exhibited any horse which is sore after being notified by a qualified person appointed by management to inspect horses or by the Secretary of Agriculture (hereinafter referred to as the "Secretary") that the horse is sore.

4. Requires management of any horse sale to prohibit the sale or auction or exhibition for the purpose of sale of any horse which is sore or if notified by a qualified person appointed by management to inspect horses or by the Secretary that the horse is sore.

5. Directs the Secretary to prescribe, by regulation, requirements for the appointment by show or auction management of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purposes of enforcing the Act and provides that such requirements shall prohibit the appointment of persons who, after notice and opportunity for a hearing, have been disqualified to make such detection, diagnosis or inspection.

6. Requires the management of a horse show, horse exhibition, horse sale or auction to establish and maintain such records, make such reports, and provide such information as the Secretary may by regulation reasonably require for the purposes of implementing and enforcing the Act.

7. Requires management, upon request of an officer or employee designated by the Secretary, to permit entry at all reasonable times for the inspection and copying (on or off premises) of such records which the Secretary requires to be maintained.

8. Authorizes the Secretary or his designated representative to inspect any horse show, exhibition, horse sale or auction and any horse at such show, exhibition, sale or auction and requires that such inspection be commenced and completed with reasonable promptness, conducted within reasonable limits and in a reasonable manner.

9. Revises the provisions which prescribe the conduct prohibited by the Act.

10. Modifies the standard of mental culpability for criminal violations of the Act from a "willful" standard to a "knowing" standard.

11. Provides new and increased criminal and civil penalties for violations of the Act.

12. Provides that a person who has been convicted for a criminal violation of the Act, or has paid a civil penalty assessed under the Act, or who is subject to a final order of assessment of a civil penalty under the Act, for a violation of the Act or regulation, may be disqualified by order of the Secretary (after notice and opportunity for a hearing) from showing or exhibiting any horse, judging or managing a horse show, exhibition, sale or auction for a period not less than one year for the first violation and not less than 5 years for any subsequent violation.

13. Provides procedures for the administrative assessment, collection, review, compromise, modification, and remission of civil penalties

and for the appeal and judicial review of administrative orders under the provisions of the Act pertaining to civil penalties.

14. Authorizes the Secretary to subpoena the attendance and testimony of witnesses and the production of books, papers, and documents, relating to any matter under investigation or the subject of a proceeding.

15. Authorizes the Secretary, or any party to a proceeding before the Secretary, to invoke the aid of the U.S. district court in requiring attendance and testimony of witnesses and the production of books, papers, and documents in cases of disobedience to a subpoena issued under the Act.

16. Authorizes the Secretary to order testimony to be taken by deposition under oath in any proceeding or investigation pending before him and to require the production of books, papers, and documents at the taking of depositions.

17. Authorizes the Secretary to detain (for a period not to exceed 24 hours) for examination, testing, or the taking of evidence, any horse at any horse show, exhibition, sale or auction, which is sore or which the Secretary has probable cause to believe is sore.

18. Provides that any equipment, device, paraphernalia, or substance which was used in violation of the Act or regulation or which contributed to the soring of a horse at or prior to a show, exhibition, sale or auction, is subject to seizure and liable for condemnation proceedings in the U.S. District Court where such equipment, device, paraphernalia, or substance is found.

19. Provides that the Secretary may, upon request, provide technical and other nonfinancial assistance to any State to assist it in administering and enforcing any law of such State designed to prohibit conduct in violation of this Act.

20. Requires the Secretary, every 12 months, to submit to Congress a report on enforcement and administrative actions taken under, and other matters covered by the Act, as well as recommendations for legislation or other proposed actions relating to the Act.

21. Increases the annual maximum authorization of appropriations for carrying out the Act from \$100,000 to \$500,000, effectively September 30, 1976, and authorizes an appropriation of \$125,000 for the fiscal 1976 transition quarter.

#### BACKGROUND

The present horse protection program began with the enactment of the Horse Protection Act of 1970 (P.L. 91-540, December 9, 1970). The Act has never been amended subsequent to its original enactment.

Hearings were held on S. 811 (Senator Tunney) and H.R. 6155 (Representative Whitehurst), bills containing similar provisions to those in the legislation proposed by the Committee, on December 17, 1975. These bills were subsequently considered in open markup by the Subcommittee on Health and the Environment and on May 11, 1976, the Subcommittee ordered reported a legislative proposal reflecting its views. This proposal was introduced as a clean bill, H.R. 13711. H.R. 13711 was considered by the full Committee on Interstate and Foreign Commerce on May 13, 1976, amended, and ordered reported by unanimous voice vote.

Similar legislation, S. 811, passed the Senate on October 20, 1975.

#### COST OF LEGISLATION

As reported by the Committee, H.R. 13711 provides new authorizations of appropriations to carry out the provisions of the Horse Protection Act as follows: \$125,000 for the period July 1, 1976 through September 30, 1976 and, effective September 30, 1976, \$500,000 annually. These authorizations may be compared to the existing law's authorizations of \$100,000 annually for purposes of carrying out the provisions of the 1970 Act.

#### NEED FOR LEGISLATION

The inhumanity of the practice of "soring" horses and its destructive effect upon the horse industry led Congress to pass the Horse Protection Act of 1970 (Public Law 91-540, December 9, 1970). The 1970 law was intended to end the unnecessary, cruel and inhumane practice of soring horses by making unlawful the exhibiting and showing of sored horses and imposing significant penalties for violations of the Act. It was intended to prohibit the showing of sored horses and thereby destroy the incentive of owners and trainers to painfully mistreat their horses.

The practice of soring involved the alteration of the gait of a horse by the infliction of pain through the use of devices, substances, and other quick and artificial methods instead of through careful breeding and patient training. A horse may be made sore by applying a blistering agent, such as oil or mustard, to the postern area of a horse's limb, or by using various action or training devices such as heavy chains or "knocker boots" on the horse's limbs. When a horse's front limbs are deliberately made sore, the intense pain suffered by the animal when the forefeet touch the ground causes the animal to quickly lift its feet and thrust them forward. Also, the horse reaches further with its hindfeet in an effort to take weight off its front feet, thereby lessening the pain. The soring of a horse can produce the high-stepping gait of the well-known Tennessee Walking Horse as well as other popular gaited horse breeds. Since passage of the 1970 act, the bleeding horse has almost disappeared but soring continues almost unabated. Devious soring methods have been developed that cleverly mask visible evidence of soring. In addition the sore area may not necessarily be visible to the naked eye.

The practice of soring is not only cruel and inhumane. The practice also results in unfair competition and can ultimately damage the integrity of the breed. A mediocre horse whose high-stepping gait is achieved artificially by soring suffers from pain and inflammation of its limbs and competes unfairly with a properly and patiently trained sound horse with championship natural ability. Horses that attain championship status are exceptionally valuable as breeding stock, particularly if the champion is a stallion. Consequently, if champions continue to be created by soring, the breed's natural gait abilities cannot be preserved. If the widespread soring of horses is allowed to continue, properly bred and trained "champion" horses would probably diminish significantly in value since it is difficult for them to compete on an equal basis with sored horses.

Testimony given before the Subcommittee on Health and the Environment demonstrated conclusively that despite the enactment of the Horse Protection Act of 1970, the practice of soring has continued

on a widespread basis. Several witnesses testified that the intended effect of the law was vitiated by a combination of factors, including statutory limitations on enforcement authority, lax enforcement methods, and limited resources available to the Department of Agriculture to carry out the law.

Representatives of the Department of Agriculture's Animal and Plant Health Inspection Service testified that in fiscal 1975 only 2.3 man-years were devoted to the enforcement of the Horse Protection Act at the regional level. It was further indicated that the central USDA office employed only one person on a fulltime basis which accounted for the one additional man-year for a total of 3.3 man-years to carry out all the Department's responsibilities under the Act. Department officials testified that unless current resources are increased it is estimated that only 20 horse shows will be inspected out of an estimated total of 3,600 shows that will be conducted in fiscal 1976. Despite the fact that the organized Tennessee Walking Horse industry and other horse industry organizations have cooperated and worked with the USDA and humane organizations such as the American Horse Protection Association and the Society for Animal Protection Legislation, to eliminate much of the practice of soring through internal self-policing efforts, increased Federal enforcement efforts are necessary if soring is to be eliminated. Since the organized horse industry has control over only approximately one-fourth of the horse show industry, industry self-enforcement is non-existent for three-fourths of the 3,600 estimated annual horse shows in the United States.

The Subcommittee's hearings also revealed that of USDA's \$100,000 annual budget for horse protection activities, only \$42,000 is available for field horse show inspections, and the remainder is expected to pay the salary of one full-time staff veterinarian and the overhead of the central office. It is estimated that it costs between \$1,000 to \$1,200 a day to thoroughly police a horse show. A horse show generally lasts for one to three days. This limited budget and low manpower level is understandably inadequate for USDA to carry out its horse protection responsibilities. In addition, testimony indicated that the Department needs more Thermovision machines, and vans to transport these machines, if their inspectors are to effectively police horse shows spread throughout the United States. Thermovision machines detect the abnormal presence of heat in the limbs of a horse, thereby providing the opportunity to substantiate in court the existence of inflammation of the limbs. They are of particular importance if the practice of soring is to be stopped, since sensitivity in the limbs of a horse is frequently masked by application or injection of anesthetic substances. These machines cost approximately \$50,000 each—half of the USDA's annual horse protection budget—and their cost of operation is approximately \$500 per day. They are used in conjunction with generators costing approximately \$10,000 each.

Since the enactment of the 1970 Act, the USDA has brought 12 criminal actions and sent out 310 letters of warning to persons alleged to be in violation of the law. The 12 criminal actions have resulted in \$8,500 in penalties but no sentences of imprisonment have been imposed. In addition the Department has imposed 51 stipulations under civil actions and a total of \$26,025 in civil penalties as of September 19, 1975. During fiscal 1975 the Department reported the successful conclusion of 3 criminal cases, 33 civil actions with fines imposed, and

266 letters of warning issued to apparent violators of the Act. In view of the limited number of horse shows inspected by the USDA (an estimated 15 to 20 annually out of a total of 3,600), this record of frequent violations and penalties suggests that the Department's enforcement efforts have reached only the "tip of the iceberg" of total violations of the Act.

Witnesses also indicated a need for expanded enforcement authority under the Act. Specific statutory authority is needed for the Secretary to require show management to make periodic and special reports and provide them with other information, including advance notices of the dates of horse shows. Authority is needed to permit officers and employees designated by the Secretary to have access for the inspection and copying, on or off show managements' premises, of records required to be maintained under the Act. Statutory authority is needed to permit the Secretary, after notice and opportunity for a hearing, to disqualify persons convicted of criminal violations or assessed for civil violations from future horse shows, exhibitions, sales or auctions for various periods of time as a deterrent against repetitive violations of the Act.

The Department has requested subpoena and deposition authority as essential to the quasi-judicial process under which the Secretary is authorized to assess civil penalties for violations and to disqualify violators from continuing to show horses. The Department indicated that past experience has demonstrated that fair hearings cannot be conducted without the power to force reluctant or adverse witnesses to appear and testify.

Witnesses also revealed a need to provide the Department's inspectors with authority to administratively detain, for a period not to exceed 24 hours, a horse at a horse show, exhibition, sale or auction, for examination, testing, or the taking of evidence when the inspector has probable cause to believe the horse is sore. It was further indicated that the Department needs the power to seize and bring liable for condemnation proceedings against equipment, devices, paraphernalia, and substances used in violation of the Act of regulations issued thereunder or which contributed to the soring of a horse.

In summary, the Committee finds a need for increased statutory authority and increased economic resources for the USDA to carry out its responsibilities under the Horse Protection Act of 1970.

#### COMMITTEE PROPOSAL AND VIEWS

*General*—The bill proposed by the Committee is intended to correct the shortcomings in the U.S. Department of Agriculture's horse protection program. As discussed above, these shortcomings are the result of a combination of factors, including statutory limitations on enforcement authority, lax enforcement methods, and limited resources of the Department.

The principal intent of the Committee bill is directed toward eliminating the inhumane practice of soring horses and the resultant unfair competition between mediocre horses which have been artificially and quickly sored and properly trained, sound, champion-bred horses.

However, the Committee also finds that it is against public policy to show or exhibit a horse which is unsound in limb or body. Consequently, the Committee opposes the entering for show or competition

any horse "unsound" in any manner. Such a horse should not be allowed to be exhibited or shown while it is in a condition of "unsoundness".

*Deletion of Definition of "Commerce"*.—The Committee bill proposes to delete the definition of "commerce" in the existing Act for the purpose of extending the Act's jurisdiction over horses in intrastate commerce. Presently, before U.S.D.A. inspectors can perform their duties at horse shows, they must locate and identify at least one horse which has moved in interstate commerce in order to be certain that the show is subject to the Act. According to the Department, owners of show horses are often reluctant to make the necessary statement or affidavit which must be produced in court for successful prosecution of any violations that may be found. Also, sored horses that have moved in intrastate commerce compete unfairly with horses that are not sore and have moved in interstate or in foreign commerce, thereby burden and adversely affect interstate and foreign commerce.

*Expanded Definition of "Sore"*.—The reported legislation expands the 1970 Act's definition of "sore", when used to describe a horse, to include any practice engaged in by a person which involves a horse where the horse, as a result of such practice, suffers, or can reasonably be expected to suffer physical pain, or distress, inflammation, or lameness when it is walking, trotting, or otherwise moving. The definition of "sore" in the Committee bill specifically excludes any act, use, or practice in connection with the therapeutic treatment of a horse by or under the supervision of a person licensed to practice veterinary medicine in the State in which such treatment is given.

The Committee bill does not contain specific provisions prohibiting the showing or exhibiting of any horse with an unsound limb since the Committee believes this to be unnecessary in view of the inclusion in the bill of a broadened definition of "sore" used to describe the types of conduct prohibited by the Act.

*Extension of Provisions of the Act to Sales and Auctions*.—The provisions of the Horse Protection Act of 1970 apply with respect to shows and exhibitions involving competition between horses. The reported bill extends the applicability of the Act to horse sales and auctions to discourage the trafficking of sore horses in commerce for the purpose of protecting the horse from this inhumane practice and to protect innocent purchasers from buying horses with artificially induced show performance qualities when they are under the mistaken belief that such horses are "champion" horses with natural abilities. The term "auction" and "sale", when used in the Committee bill, are intended to include both public and private auctions and sales. The Committee is cognizant that the Department will have to revise its current regulations to provide for expanded coverage over horse auctions and sales.

*Appointment of Non-Governmental Inspectors*.—The reported bill authorizes the Secretary to prescribe, by regulations, requirements for the appointment by the management of horse shows, exhibitions, sales and auctions of persons qualified to detect and diagnose a sore horse and to conduct inspections for the purpose of enforcing the Act. The Committee does not intend that this authority permit the Secretary to make mandatory the appointment of such persons for all horse shows, exhibitions, sales and auctions conducted. It is solely intended to au-

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thorize the Secretary to prescribe the qualifications and duties of such persons if management elects to appoint and hire these individuals to perform inspections and thereby have the benefit of certain limits upon their liability for violation of the Act. The regulations promulgated by the Secretary may include provisions prescribing the minimum qualifications and certification of non-professional persons having the responsibility for conducting inspection as well as for the accreditation requirements of professionals having inspection responsibilities. In addition, these regulations may prescribe the conditions to assure the independence of the judgment of persons hired to conduct inspections in carrying out their responsibilities. The regulations may also include requirements that management have the responsibility to provide such inspectors with information and instruction to assist them in carrying out their responsibilities. Such regulations may require these inspectors to establish and maintain records of horses that they have disqualified or excused and to provide such records and other information to the Secretary.

*Requirements with respect to Records, Reports and other Information.*—The reported bill authorizes the Secretary to require management to establish and maintain records, to make reports, and to provide such information as he may reasonably require for the purpose of implementing and enforcing the Act. It is intended that these regulations may require such reports as notices of the date, time, and place of future horse shows, exhibitions, auctions or sales to enable the Department to have knowledge of their existence and provide the necessary personnel and equipment for carrying out its responsibilities under the Act. The Committee commends the Tennessee Walking Horse Owners and Breeders Association for providing the Department, on a voluntary basis, with advance notice of horse shows and exhibitions. Nevertheless, the Committee bill recognizes a need for this new authority to provide unorganized management with the same responsibilities since the management of most horse shows, exhibitions, auctions and sales are not affiliated with organized associations.

The reported bill also requires management to permit the Secretary entry at all reasonable times for the inspection and copying, on or off the management's premises, of records required to be maintained under the Act and regulations issued thereunder. The Committee recognizes a need for the Secretary to have authority to copy records off the premises in situations where neither management nor the Secretary has equipment for the duplication and mechanical reproduction of such records. However, it is intended that this grant of authority be limited to these and other situations where it is inappropriate to obtain copies of records. When Department personnel remove such records from management premises, it is expected that they be returned as promptly as possible and in their original condition. The Committee also expects that all inspections conducted by the Department will be commenced and completed with reasonable promptness, conducted in a reasonable manner, and carried out in accordance with applicable provisions of law.

The reported bill contains a more expanded enumeration of the categories of conduct prohibited under the Act.

*Conduct Prohibited by the Bill.*—The reported bill contains a more expanded enumeration of the categories of conduct prohibited

under the Act. It retains the provisions of existing law which prohibit the shipment, transportation, showing, or exhibition or sored horses and the conducting of horse shows in which sored horses are exhibited. It adds as prohibited conduct (1) the failure to disqualify sored horses from horse shows or exhibitions (2) the failure to prohibit the sale or auction of sored horses (3) the showing, exhibiting, or selling of horses wearing equipment, paraphernalia or substances prohibited by the Secretary in order to prevent soring (4) the failure to establish, maintain or submit required records, notices, reports, or other information (5) the failure to permit required access to or copying of records, or refusal to permit authorized entry or inspection (6) the removal of markings identifying a horse as detained and (7) the failure or refusal to provide required adequate space or facilities in which to conduct inspections or other authorized activities.

The proposed legislation also includes a provision which specifically excludes as a violation of the Act the shipping, transportation, moving, delivering, or receiving of any sore horse by a common or contract carrier, or its employes, in the usual course of business or employment, unless there is reason to believe that the horse is sore. In addition, the Committee does not intend that the prohibitions against the transporting, moving, delivering or receiving of a sore horse, apply in instances where it can be demonstrated that such action was taken to prevent the occurrence of violations or to enforce the provisions of the Act or regulations issued pursuant thereto.

As noted above, proposed legislation includes, as a violation of the Act, the failure or refusal to provide the Secretary with adequate space or facilities as he may prescribe by regulation. In promulgating these regulations, respecting the responsibilities of management and other persons subject to the Act, the Secretary may consider such factors as the safety and protection of Department employees from crowds and adverse weather conditions, the necessity of adequate lighting and electrical sources, and adequate facilities for the inspection and detention of horses. It is intended, however, that such regulations should not impose unreasonable requirements in providing such space and facilities.

*Provisions with respect to Criminal Sanctions.*—The proposed legislation modifies the standard of mental culpability for criminal violations of the Act from a "willful" standard to a standard involving knowledge. Since the Department has encountered many problems in proving the requisite specific criminal intent for criminal convictions of persons in violation of the Act and in persuading United States Attorneys to initiate criminal actions, the Committee believed that this change was necessary. It has often been difficult for the Department to produce evidence that an individual actually engaged in an act which caused a horse to become sore, since such act is seldom witnessed. For this reason, it has been virtually impossible to produce additional evidence of an individual's specific intent to alter the gait of such horse.

The proposed legislation increases the maximum criminal fine under existing law from \$2,000 for each offense to \$3,000 for each offense, and the maximum term of imprisonment from 6 months for each offense for violations involving sore horses. It also provides for a maximum of two years of imprisonment and a \$5,000 fine, or both, for subsequent offenders. The Department has expressed a need for in-

creased criminal penalties as a deterrent to the practice of soring. U.S.D.A. officials informed the Committee that individuals have been charged with as many as six offenses involving the soring of horses. It has been the experience of the Department that multiple offenders are almost exclusively professional owners and trainers who make their livelihood training, breeding, showing, and selling horses and not amateur, hobbyist horsemen.

The Committee bill also provides new criminal penalties of a maximum term of imprisonment of 3 years, a fine of \$5,000, or both, for such violations as knowingly making false entries in reports, accounts, or records, or knowingly removing, mutilating, altering, falsifying or refusing to submit documentary evidence as required by the Act. The Committee believes that these severe criminal penalties are necessary for the Secretary's enforcement of the Act. Department officials have informed the Committee that owners and trainers have made false entries in horse show class entrance sheets by misrepresenting the names and addresses of horses and their owners. As a result, it has taken the Department as long as two years to locate persons who have violated the Act. In addition, the Department has indicated that owners and trainers have falsified veterinary certificates and that show management has falsified competition class sheets and records of horses excused and disqualified from shows by management or their representatives. Since the Committee bill authorizes the Secretary to require by regulation new records to be established and maintained, such as proof that a qualified and certified inspector has been employed by management, it is necessary to provide such penalties for violations of these new requirements of the Act.

Since the 1970 legislation was enacted, there have been frequent instances where U.S.D.A. officers and employees have been threatened and assaulted by individuals while carrying out their responsibilities under the Act. The Department has indicated that at least twice, horsemen have attempted to run down Department employees with a horse. There have been numerous threats of bodily harm and death and threats of damage to the Department's equipment. In one instance, mustard oil was poured into a government vehicle. Often, U.S.D.A. inspectors must be accompanied by United States Marshals to provide them with protection. As a consequence, the Committee believes there is a need to provide Federal criminal penalties for persons who forcibly assault, resist, oppose, impede, intimidate, or interfere with persons while engaged in, or on account of, the performance of their official duties under the Act. It is intended that these offenses may include the unauthorized moving or tampering of a horse under detention by the Secretary and the destruction of equipment used by inspectors in performing their duties under the Act. The proposed legislation also includes increased penalties when persons engage in such conduct by using deadly or dangerous weapons or where they kill another person while engaged in, or on account of, the performance of such official duties.

*Civil Penalties.*—The proposed legislation provides for increased civil penalties for violations of the Act, regulations issued thereunder and for failure to obey an order of disqualification relating to the showing, exhibiting, sale or auction of horses. The reported bill provides that a person who has been convicted for a criminal violation, who has paid an assessed civil penalty, or who is subject to a final order

of assessment of a civil penalty for a violation of the Act or regulations, may be disqualified by order of the Secretary from showing or exhibiting any horse, judging or managing a horse show, exhibition, sale or auction, for a period of not less than one year for the first violation and not less than five years for any subsequent violation. Such persons are entitled to notice and opportunity for a hearing before an order of disqualification may be issued. The Committee believes that such disqualification provides a strong deterrent to subsequent offenses by individuals who have the economic means to pay civil penalties as a cost of doing business.

*Detention of Horses.*—The Committee bill provides authority for the Secretary to detain a horse for a period not to exceed 24 hours for examination, testing, or the taking of evidence when he has probable cause to believe that such horse is sore. A 24 hour detention period is necessary for the inspection of the horse after sufficient time elapses for pain killing agents to lose their effectiveness and, (in other "borderline" cases involving "recent" soring where a horse) for symptoms unapparent at the time of inspection, to develop

*Illegal Equipment.*—The Committee bill provides that any equipment, device, paraphernalia, or substance which was used in violation of the Act or regulation or which contributed to the soring of a horse at or prior to a horse show, exhibition, sale or auction, is subject to seizure by liable for condemnation proceedings in the United States District Court. Department of Agriculture officials have indicated that the USDA has been unable to seek the successful prosecution of many cases due to lack of authority to seize, as evidence, illegal equipment which has disappeared, but which was used in violation of the Act or regulation. In addition, they have indicated that it is desirable to have the authority to bring condemnation proceedings against such equipment to prevent its reuse and to have a mechanism suited to provide an incentive to bring violations into the jurisdiction of the courts.

*Assistance to States.*—The Department has indicated that at least two States have enacted laws which apply to the inhumane treatment of animals, including the soring of horses. It is anticipated that more States will enact similar legislation. Consequently, the Committee bill clarifies the authority of the Secretary to provide technical and other nonfinancial assistance, including the lending of equipment (such as generators, cameras, vans and thermavision machines), to States to assist them in administering and enforcing laws designed to prohibit the soring of horses.

*Authorizations of Appropriations.*—As previously indicated, the proposed legislation provides for a modest \$400,000 increase in the annual authorization level for the Department to carry out its responsibilities under the Act.

#### SECTION-BY-SECTION ANALYSIS

*Section 1 of the bill* provides that the Act may be cited as the "Horse Protection Act Amendments of 1976" and further provides that whenever in the Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Horse Protection Act of 1970.

*Section 2 of the bill* revises the first section of the 1970 Act to change its citation to the "Horse Protection Act."

*Section 3 of the bill* revises section 2 of the 1970 Act to repeal the definition of "commerce" and to—

(1) Define the term "mangement" (as it is applicable to a horse show, exhibition sale or auction) as meaning any person who organizes, exercises control over, administers or is responsible for organizing, directing or administering;

(2) Provide that the term "Secretary", when used in the Act means the Secretary of Agriculture;

(3) revise the definition of the term "sore" as it applies to a horse to mean that—

(a) An irritating or blistering agent has been applied by a person to the limbs of a horse,

(b) any burn, cut, or laceration has been inflicted by a person to the limb of a horse,

(c) Any tack, screw, nail or chemical agent has been injected by a person into or on the limb of a horse, and

(d) Any other substance used by a person on the limb of a horse and any practice engaged in by a person which involves a horse,

and as a result thereof, the horse suffers, or can reasonably be expected to suffer physical pain or distress, inflammation or lameness when walking, trotting, or otherwise moving, except that the term does not include the application, infliction, injection, use, or practice in connection with the therapeutic treatment of a horse by or under the supervision of a person licensed to practice veterinary medicine in the State in which such treatment was given; and

(4) Define the term "State".

*Section 4 of the bill* revises section 3 of the 1970 Act to provide new Congressional findings as follows:

(1) The soring of horses is cruel and inhumane.

(2) Horses shown or exhibited which are sore compete unfairly with horses that are not sore.

(3) The movement, showing, exhibition or sale of sored horses in intrastate commerce adversely affects interstate commerce.

(4) All horses subject to regulation under the Act are either in interstate commerce or substantially affect such commerce.

(5) Regulation under the Act is appropriate to prevent and eliminate burdens on commerce and to effectively regulate commerce.

*Section 5 of the bill* revises section 4 of the 1970 Act to:

(1) Require the management of any horse show or exhibition to disqualify from being shown or exhibited any horse (a) which is sore, or (b) if the management has been notified by a qualified person appointed by management to inspect horses or by the Secretary that the horse is sore.

(2) Require the management of any horse sale or auction to prohibit the sale or auction or exhibition for the purpose of sale of any horse (a) which is sore, or (b) if notified by a qualified person appointed by management to inspect horses or by the Secretary that the horse is sore.

(3) Direct the Secretary to prescribe, by regulation, requirements for the appointment by the management of a horse show, sale, exhibition or auction of persons qualified to detect and diagnose a horse which

is sore or to otherwise inspect horses for the purposes of enforcing the Act. Such requirements must prohibit the appointment of persons who, after notice and opportunity for a hearing, have been disqualified to make such detection, diagnosis or inspection. Appointments of such persons shall not be construed as authorizing them to conduct inspections in a manner not authorized for inspections conducted by the Secretary.

(4) Require the management of a horse show, horse exhibition, horse sale or auction to establish and maintain such records, make such reports, and provide such information as the Secretary may by regulation reasonably require for the purposes of implementing and enforcing the Act and require management, upon request of an officer or employee designated by the Secretary, to permit entry at all reasonable times for the inspection and copying (on or off the premises) of records required to be maintained.

(5) Authorize the Secretary or his designated representative, upon presenting appropriate credentials, to inspect any horse show, exhibition, sale or auction and any horse at such show, exhibition, sale or auction. Such inspection must be commenced and completed with reasonable promptness, conducted within reasonable limits and in a reasonable manner. Inspections are authorized to extend to all things, including records, bearing on whether the requirements of the Act have been complied with.

*Section 6 of the bill* revises section 5 of the 1970 Act to provide that the following conduct is prohibited:

(1) The shipping, transporting, moving, delivery, or receiving of any sore horse with reason to believe that the horse may be shown, exhibited, entered for the purpose of being shown or exhibited, sold, auctioned or offered for sale, in any horse show, horse exhibition, horse sale or auction, except the shipping, transporting, moving, delivering or receiving of a horse by a common or contract carrier in the usual course of its business unless it has reason to believe that the horse is sore.

(2) The showing, exhibiting, or entering for the purpose of showing or exhibiting, or selling, auctioning, or offering for sale, or allowing (by the owner) to be shown, exhibited, sold, or auctioned, any horse which is sore.

(3) The failure by the management of any horse show or horse exhibition, which does not appoint a qualified inspector to disqualify any horse which is sore.

(4) The failure by the management of any public horse sale or auction, which does not appoint a qualified inspector to prohibit the sale, offering for sale, or auction of any horse which is sore.

(5) The failure by the management of any horse show or horse exhibition, which has appointed and retained a qualified inspector to disqualify from being shown or exhibited any horse which is sore if the management has been notified by such inspector of the Secretary or if the management otherwise has knowledge, that the horse is sore.

(6) The failure by the management of any horse sale or auction, which has appointed a qualified inspector, to prohibit the sale, offering for sale, or auction of any horse which is sore if the management has been notified by such inspector or if the management otherwise has knowledge that the horse is sore.

(7) The showing or exhibiting at a horse show or horse exhibition; the selling or auctioning at a public horse sale or auction; the allowing to be shown, exhibited, or sold at a horse show, exhibition, sale or auction; the entering for the purpose of showing or exhibiting in any horse show or horse exhibition; or offering for sale at a horse show or auction any horse which is wearing or bearing any equipment, device, paraphernalia, or substance which the Secretary by regulation prohibits to prevent the soring of horses.

(8) The failure to establish, maintain, or submit records, reports or other information required by the Act.

(9) The failure or refusal to permit access to or copying of records, or the failure or refusal to permit entry or inspection, as required by the Act.

(10) The removal of any marking required by the Secretary to identify a horse as being detained.

(11) The failure or refusal to provide the Secretary with adequate space or facilities (as prescribed by regulation) in which to conduct inspections or any other activity authorized to be performed by the Secretary.

*Section 7 of the bill* revises section 6 of the 1970 Act to provide criminal penalties for violations of the Act as follows:

(1) It provides that any person who knowingly violates section 5 of the Act shall, upon conviction thereof, be fined not more than \$3,000 or imprisoned for not more than one year, or both.

(2) It provides that any person who knowingly violates section 5 of the Act after one or more prior convictions of such person has become final shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned for not more than two years, or both.

(3) It provides that any person—

(a) Who knowingly makes a false entry in any report required under the Act;

(b) Who knowingly makes or causes to be made any false entry in any account, record or memorandum required to be established and maintained or in any notification required to be submitted under section 4 of the Act;

(c) Who knowingly neglects or fails to make or cause to be made full, true and correct entries in such accounts, records, memoranda, notification, or other materials;

(d) Who knowingly removes any such documentary evidence out of the jurisdiction of the United States;

(e) Who knowingly mutilates, alters or by any other means falsifies any such documentary evidence; or

(f) Who knowingly refuses to submit any such documentary evidence to the Secretary for evidence or copying

shall be guilty of an offense against the United States and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned for not more than three years, or both.

(4) It provides that any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under the Act shall be fined not more than \$5,000 or imprisoned for not more than three years, or both. In addition, it provides new criminal penalties of a maximum of imprisonment of 10 years and a maximum fine of \$10,000 or both, for a person who, in the commission

of such acts, uses a deadly or dangerous weapon and provides that a person who kills another person while engaged in or on account of the performance of his official duties shall be punishable as provided under sections 1111 and 1112 of title 18, United States Code.

(5) It provides that any person who violates section 5 of the Act shall be liable to the United States for a civil penalty of not more than \$2,000 for each violation; provides that no penalty shall be assessed against a person unless he is given notice and opportunity for a hearing before the Secretary with respect to the violation; provides that the amount of the civil penalty shall be assessed by the Secretary by written order; and requires the Secretary, in determining the amount of the civil penalty, to take into account all factors relevant to the determination, including the nature, circumstances, extent, and gravity of the prohibited conduct and, with respect to the person found to have engaged in such conduct, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and other such matters as justice may require.

(6) It provides that any person against whom a violation is found and a civil penalty assessed may obtain judicial review in the court of appeals of the United States for the circuit in which the person resides or has his place or business or in the United States Court of Appeals for the District of Columbia by filing a notice of appeal within 30 days from the date of the Secretary's order with respect to the civil penalty and by simultaneously sending a copy of such notice by certified mail to the Secretary. It requires the Secretary to promptly file in such court a certified copy of the violation record; and provides that the findings of the Secretary shall be set aside if found to be unsupported by substantial evidence.

(7) It provides that if any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. Further, it provides that in such an action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(8) It authorizes the Secretary in his discretion, to compromise, modify and remit, with or without conditions, any civil penalty assessed.

(9) It provides that a person who has been convicted for a criminal violation of the Act, or has paid a civil penalty assessed under the Act, or who is subject to a final order of assessment of a civil penalty under the Act, for a violation of the Act or regulation, may be disqualified by order of the Secretary (after notice and opportunity for a hearing) from showing or exhibiting any horse, judging or managing a horse show, exhibition, sale or auction for a period not less than one year for the first violation and not less than 5 years for any subsequent violation. It provides that a person who knowingly fails to obey an order of disqualification shall be subject to a maximum civil penalty of \$3,000 for each violation. It provides that any horse show, exhibition, sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show, exhibit, or enter for the purpose of showing

or exhibiting any horse, to take part in managing or judging or otherwise to participate in any horse show, exhibition, sale or auction in violation of an order shall be subject to a maximum civil penalty of \$3,000 for each violation. It provides procedures for the assessment, collection, review, compromise, modification, and remission of such civil penalties.

(10) It authorizes the Secretary to subpoena the attendance and testimony of witnesses and the production of books, papers, and documents, relating to any matter under investigation or the subject of a proceeding and authorizes payment of witness fees.

(11) It authorizes the Secretary, or any party to a proceeding before the Secretary, to invoke the aid of the U.S. district court in requiring attendance and testimony of witnesses and the production of books, papers, and documents in cases of disobedience to a subpoena issued under the Act.

(12) It authorizes the Secretary to order testimony to be taken by deposition under oath in any proceeding or investigation pending before him, at any stage of the proceeding or investigation, and to require the production of books, papers, and documents at the taking of depositions and authorizes payment of expenses of persons making such depositions.

(13) It provides that in any civil or criminal action to enforce the Act or a regulation issued thereunder, a horse shall be presumed to be sore if it manifests abnormal sensitivity or inflammation in both of its forelimbs or both of its hindlimbs.

(14) It provides that the United States district courts and the comparable courts of U.S. territories and possessions be vested with jurisdiction to enforce, and to prevent and restrain violations of the Act, and have jurisdiction in all other kinds of cases arising under the Act, except for review of orders for the assessment of civil penalties (which are subject to review by the U. S. Circuit Courts of Appeal).

(15) It authorizes the Secretary to detain (for a period not to exceed 24 hours) for examination, testing, or the taking of evidence, any horse at any horse show, exhibition, sale or auction, which is sore or which the Secretary has probable cause to believe is sore and authorizes the Secretary to require the temporary marking of any horse during its detention for the purpose of identification and provides that a horse which is detained shall not be moved by any person from the place it is so detained except as authorized by the Secretary or until the expiration of the 24 hour detention period applicable to the horse.

(16) It provides that any equipment, device, paraphernalia, or substance which was used in violation of the Act or regulation or which contributed to the soring of a horse at or prior to a show, exhibition, sale or auction, is subject to seizure or condemnation proceedings in the U.S. District Court where such equipment, device, paraphernalia, or substance is found, and that such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.

*Section 8 of the bill* amends section 8 of the 1970 Act to add a new subsection (b) which authorized the Secretary, upon request to provide technical and other nonfinancial assistance (including the lending of equipment on such terms and conditions as the Secretary determines is appropriate) to any State to assist it in administering

and enforcing any law of such State designed to prohibit conduct in violation of the Act.

*Section 9 of the bill* amends section 11 of the 1970 Act to require that the report required to be submitted to Congress on implementation of the Act be submitted every 12 months. Under the existing Act, this report is required to be submitted every 24 months.

*Section 10 of the bill* amends section 12 of the Act to authorize appropriations for carrying out the Act as follows: \$125,000 for the period July 1, 1976, through September 30, 1976, and, effective September 30, 1976, \$500,000 annually.

#### PROGRAM OVERSIGHT

The Committee's principal oversight activities with respect to this program have been conducted by the Subcommittee on Health and the Environment in connection with its consideration of the legislative authority. The Subcommittee's findings are discussed in detail in this report as the proposed legislation is designed to respond to the Subcommittee's findings.

The Committee has not received oversight reports from either its own Subcommittee on Investigations and Oversight or the Committee on Government Operations.

#### INFLATION IMPACT STATEMENT

The Committee does not anticipate that the enactment of H.R. 13711 will have any inflationary impact. The amounts authorized for administration and enforcement of the horse protection program are very small in proportion to the budget of the Department of Agriculture and the overall Federal budget. Much of the cost burdens will be borne by the horse industry which will assume most of the responsibility for horse protection. In addition, the amounts authorized for the program should be more than offset by the adverse inflationary impact on the multi-million dollar horse industry which would result if the practice of soring is not curtailed. As previously mentioned, if the soring of horses as a widespread practice continues, properly bred and trained "champion" horses would probably diminish significantly in value since it is difficult for them to compete on an equal basis with sored horses. If the value of properly bred and trained horses is diminished, owners, breeders, trainers, and others with an economic interest in the legitimate horse industry would suffer great economic injury.

#### CONGRESSIONAL BUDGET OFFICE REPORT

CONGRESS OF THE UNITED STATES,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, D.C., May 13, 1976.*

HON. HARLEY O. STAGGERS,  
*Chairman, Committee on Interstate and Foreign Commerce,  
U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 13711, the Horse Protection Amendments of 1976.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Alice M. Rivlin,  
*Director.*

Attachment.

CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE

1. Bill number: H.R. 13711.
2. Bill title: Horse Protection Amendments of 1976.
3. Purpose of bill: To increase permanent authorization ceiling from \$100,000 per year to \$500,000 to provide for the protection of horses.
4. Cost estimate:

Transition quarter-----	\$100,000
1977-----	400,000
1978-----	400,000
1979-----	400,000
1980-----	400,000
1981-----	400,000

5. Basis for estimate: The increase in authorization from \$100,000 to \$500,000 would require an additional \$400,000 per year in outlays; for the Transition Quarter, authorization is set at \$125,000, or an increase of \$100,000 over existing levels. Costs are based upon a spendout rate of 100 percent of funds appropriated in a given year and assumes appropriation levels to equal the authorized amount.

6. Estimate comparison: Not Applicable.
7. Previous CBO estimate: Not Applicable.
8. Estimate prepared by: Jeffrey C. Merrill.
9. Estimate approved by: C. G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

AGENCY VIEWS

The following correspondence from the Department of Agriculture, dated May 12, 1976, setting forth the views of the Department, was received by the Committee.

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., May 12, 1976.*

Hon. HARLEY O. STAGGERS,  
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives.*

DEAR MR. CHAIRMAN: This is in reply to your request for our comments on the subcommittee print of a proposed bill, dated May 5, 1976, to amend the Horse Protection Act of 1970.

This Department recommends that the bill be enacted only if amended as suggested in the enclosure to this report.

The bill would redefine what constitutes a "sore" horse, add a new definition of "unsound limb," and expand the definition of "commerce" to include intrastate commerce. The bill would require the management of a horse show or horse exhibition to disqualify sore horses or horses with an unsound limb, and impose a similar requirement with

respect to sore horses at public horse sales or auctions. However, alternatively management could appoint a qualified person (i.e., a veterinarian) to detect and diagnose horses that are sore or have an unsound limb and disqualify horses from being shown or exhibited, that in such qualified person's opinion are sore or have an unsound limb and to prevent the sale at public horse sales and auctions of horses that in such qualified person's opinion are sore. The management of such shows, exhibitions, sales, and auctions would further be required to keep such records, and submit such notifications, reports, and other relevant material, as the Secretary of Agriculture may prescribe after formal rule-making. The Secretary would be authorized to conduct inspections on horse shows, horse exhibitions, public horse sales, and auctions and horses thereat, and to inspect and copy records required by the Act. As amended by the bill, the Horse Protection Act would prohibit, among other things, the movement of sore horses in commerce under certain circumstances, the showing of any sore horse, the showing of any horse with an "unsound limb" after being advised of such unsoundness, the sale at public auction of any horse that is sore, and the showing of, or sale at public auction of, any horse bearing any device or substance not allowed by the Secretary. Criminal and civil fines for violation of the Act would be substantially increased.

The Secretary would be authorized to disqualify persons convicted or assessed a civil penalty for violating the Act from participation in horse shows, horse exhibitions, and public horse sales and auctions for various periods of time. Necessary enforcement powers would be granted the Secretary, including subpoena power; the authority to detain horses suspected of being sore, for up to 24 hours for further examination; the authority to disqualify a horse from a horse show or exhibition if there is probable cause to believe it is sore or has an unsound limb; and the authority to prohibit the sale at public auction of any horse which there is probable cause to believe is sore. The Secretary would also have the authority to seize equipment, devices, or substances upon probable cause to believe they were used in violation of the Act. Finally, the bill would increase the authorization of appropriations.

This bill is designed to strengthen enforcement of the Horse Protection Act of 1970. The law was passed in response to concern over the inhumane practice of soring and the unfair economic advantage this practice gives to certain segments of the horse industry. Since implementation of the Act began in 1971, it has become clear that enforcement efforts require the concerted support of the horse industry, and substantial cooperation by affected States.

This is not to condemn present efforts by responsible members of the community. The organized horse industry, which represents approximately one-fourth of the horse show industry has initiated an anti-soring program in conjunction with its own rules and regulations. The Department has been instrumental in encouraging this development. It has also made significant progress in efforts to establish communications and cooperative working relationships with the entire horse industry and humane associations. However, substantial non-compliance with the law continues to exist, and devious methods of soring have been developed that are not visibly apparent. Department inspectors continue to be intimidated from time to time and must often be accompanied by U.S. Marshals to ensure their safety.

Although the primary mission of the Department is to ensure food and fiber for the Nation's consumers, Congress has clearly indicated that an aspect of the overall Department mission is to assure the humane treatment of animals. Accordingly, the Department has been given the responsibility for enforcing the Animal Welfare Act and the Horse Protection Act. However, increased Federal spending without greater cooperation from the industry will not cure the problem.

Enactment of the bill would require additional appropriations to the extent authorized in the enclosed suggested amendments. This is \$125,000 for the transition period and \$500,000 for the fiscal years beginning October 1, 1976 and October 1, 1977.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN A. KNEBEL,  
*Under Secretary.*

Enclosure.

USDA SUGGESTED AMENDMENTS TO SUBCOMMITTEE PRINT OF PROPOSED BILL, DATED MAY 5, 1976, TO AMEND HORSE PROTECTION ACT OF 1970

Page 2—Sec. 2(3), delete "to describe" and insert "with respect to".

Page 3—Sec. 2(4), delete period at end of sentence and add "and any territory or possession of the United States." Add new Sec. 2(6) "The term 'qualified person' shall mean such person certified in accordance with regulations established by the Secretary to inspect horses at a horse show, horse exhibition, horse sale or auction to detect horses which are sore or have any unsound limb."

Pages 4 and 5—Sec. 4, delete subsection (c) and insert in lieu thereof the following: (c) The management of any horse show, horse exhibition or horse sale or auction, in accordance with regulations established by the Secretary shall appoint and retain a qualified person, or persons to detect and diagnose a sore horse and a horse with any unsound limb, other than a person who has been disqualified by the Secretary after notice and opportunity for a hearing to inspect all horses: (1) on the show or exhibition grounds within three (3) hours prior to each exhibit or show in which each horse is entered; and to conduct inspections of all horses tied in first place immediately after they are shown or exhibited; and (2) on the sale or auction grounds within three (3) hours prior to the sale or auction of such horse; and to conduct random inspections of horses after they are sold at such sale or auctions.

Page 5—Sec. 4(d), 4th line delete "reasonably." Sec. 4(e), delete the second and third sentences.

Page 6:

After Sec. 4(e) add new subsection (f) as follows:

"(f) The management of any horse show, horse exhibition, horse sale or horse auction shall report all violations of this Act to the Secretary or his representative pursuant to regulations established by the Secretary within five (5) days of the conclusion of such horse show, horse exhibition, horse sale, or horse auction."

Sec. 5(3) delete "any horse (A) which has an unsound limb, and (B)" and insert the following: "by the management of a horse show or horse exhibition any horse which has any unsound limb"

Page 7:

Delete Sec. 5(4); Sec. 5(5) is renumbered Sec. 5(4) and the following wording is deleted "which does not appoint and retain a qualified person in accordance with section 4(c) of this Act"

Add a new Sec. 5(5) as follows: "The failure by the management of any horse show, horse exhibition or horse sale or horse auction to appoint a qualified person in accordance with section 4(c) of this Act."

Delete (6) and insert in lieu thereof the following: "The failure by the management of any horse show, horse exhibition, horse sale or horse auction to ensure that the qualified person appointed pursuant to section 4(c) inspects all horses before they are shown, exhibited, sold or auctioned in accordance with section 4(c) of this Act."

Delete Sec. 5(7) and insert a new (7) as follows: "The failure of the qualified person appointed by the management of any horse show, horse exhibition, horse sale or horse auction under section 4(c) of this Act to perform inspections of horses prior to their being shown, exhibited, sold or auctioned as required by section 4(c) of this Act."

Add a new Sec. 5(8) as follows: "The failure of the qualified person appointed by the management of any horse show or horse exhibition from disqualifying from being shown or exhibited at such horse show or horse exhibition any horse which is sore or has an unsound limb."

Add a new Sec. 5(9) as follows: "The failure of the qualified person appointed by the management of any horse sale or horse auction from disqualifying from being sold at any horse sale or horse auction any horse which is sore."

Add a new Sec. 5(10) as follows: "The failure of the qualified person appointed by the management of any horse show, horse exhibition, horse sale or horse auction to report to the management of such horse show, horse exhibition, horse sale or horse auction all horses which he has disqualified from being shown, exhibited, sold or auctioned and the reasons for such disqualifications."

Page 8:

Sec. (8) is renumbered (11) and deleting the word "public" wherever it appears.

Sec. (9) is renumbered as sec. (12).

Sec. (10) is renumbered as sec. (13).

Sec. (11) is renumbered as sec. (14).

Sec. (12) is renumbered as sec. (15).

Page 9:

The penalties in section 6(a) (1) are increased from "\$3,000" to "\$5,000" and from "six months" to "one year"

The penalties in section 6(2) (A) are increased from "one year" to "two years" and "\$5,000" to "\$10,000."

Page 10:

The money penalties in section 6(2)(B) are increased from "\$5,000" to "\$15,000."

The money penalties in section 6(2)(C) are increased from "\$5,000" to "\$15,000" for forcible assaults, interference and intimidation, etc.

The money penalties in section 6(2)(C) for the use of a deadly or dangerous weapon are increased from "\$10,000" to "\$15,000."

Section 6(2)(D) is amended to read as follows: "This subsection does not apply to a violation with respect to a horse with an unsound limb except such horse which manifests abnormal sensitivity or inflammation in both of its forelimbs or both of its hindlimbs as defined in section 6(d)(5) of this Act."

The civil penalties in section 6(b)(1) are increased from "\$1,000" to "\$3,000."

Section 7 of the bill would amend section 6 of the Act relating to the imposition of civil penalties. The last sentence of new section 6(b)(1) would require the Secretary to take into account certain factors in determining the amount of the civil penalty, including the effect of the penalty on the respondent's ability to continue in business and the respondent's ability to pay the penalty. The Secretary already considers many of these factors in assessing civil penalties. We do not object to enumeration of examples of relevant factors in the Act, since the weight to be given to any particular factor would be left in the Secretary's discretion. For example, if someone is unable to pay a penalty, and disqualification would put him out of business, the Secretary would not be precluded from taking such action under the Act as is necessary to effectuate the purpose of the Act, even though it may result in a violator being put out of business. Also, the ability to pay a penalty would not be a controlling criterion in determining the level of penalty necessary to effectively enforce the Act. We recommend that this interpretation be reflected in the legislative history.

Page 11—Sec. 6(b)(2), delete the word "promptly" in line 10 and insert "within thirty (30) days".

Page 12—Sec. 6(c) delete the word "may" in line 7 and insert the word "shall".

Page 13—In last line of Sec. 6(c) insert immediately prior to "civil penalties" the following: "disqualifications and"

Page 14—Amend Sec. 6(d)(5) to read as follows: "In any civil or criminal action to enforce this Act or any regulation under this Act a horse shall be considered to be sore if it manifests abnormal sensitivity or inflammation in both of its forelimbs or both of its hindlimbs."

Page 15—Sec. 6(e)(2) delete " " at the end thereof and add the following new sentence: "Any expenses for the stabling, feeding, care, handling or other incidental expenses in the detention of a horse shall be paid by the owner of such detained horse."

Page 15:

A new Sec. 10 be added to the Bill as follows: "The Secretary is empowered to make such exclusions from this Act as he shall deem necessary for its effective administration."

Section 10 of the Bill is renumbered Sec. 11(a) and is amended to read as follows: "Section 12 (15 U.S.C. 1831) is amended by

striking '\$100,000 annually' and inserting in lieu thereof \$500,000 for each of the fiscal years beginning October 1, 1976, and October 1, 1977."

A new section 11(b) is added to the Bill as follows: "Effective with respect to the interim period of July 1, 1976, through September 30, 1976, \$125,000 is hereby authorized to be appropriated for the purposes of this Act."

Amend the phrase "public horse sale or auction" wherever it appears in the bill by deleting the word "public".

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### HORSE PROTECTION ACT OF 1970

\* \* \* \* \*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Horse Protection Act [of 1970]".*

**[SEC. 2. (a)** A horse shall be considered to be sore if, for the purposes of affecting its gait—

**[**(1) a blistering agent has been applied after the date of enactment of this Act internally or externally to any of the legs, ankles, feet, or other parts of the horse;

**[**(2) burns, cuts, or lacerations have been inflicted after the date of enactment of this Act on the horse;

**[**(3) a chemical agent, or tacks or nails have been used after the date of enactment of this Act on the horse; or

**[**(4) any other cruel or inhumane method or device has been used after the date of enactment of this Act on the horse, including, but not limited to, chains or boots;

which may reasonably be expected (A) to result in physical pain to the horse when walking, trotting, or otherwise moving, (B) to cause extreme physical distress to the horse, or (C) to cause inflammation.

**[**(b) As used in this Act, the term "commerce" means commerce between a point in any State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) and any point outside thereof, or between points within the same State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) but through any place outside thereof, or within the District of Columbia, or from any foreign country to any point within the United States.]

*SEC. 2. As used in this act unless the context otherwise requires:*

(1) *The term "management" means any person who organizes, exercises control over, or administers or who is responsible for organizing, directing, or administering.*

(2) *The term "Secretary" means the Secretary of Agriculture.*

(3) *The term "sore" when used to describe a horse means that—*

(A) *An irritating or blistering agent has been applied, internally or externally, by a person to any limb of a horse,*

(B) *any burn, cut, or laceration has been inflicted by a person on any limb of a horse,*

(C) *any tack, nail, screw, or chemical agent has been injected by a person into or used by a person on any limb of a horse, or*

(D) *any other substance or device has been used by a person on any limb of a horse or a person has engaged in a practice involving a horse,*

*and, as a result of such application, infliction, injection, use, or practice, such horse suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of a horse by or under the supervision of a person licensed to practice veterinary medicine in the State in which such treatment was given.*

(4) *The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, American Samoa, and the Trust Territory of the Pacific Islands.*

**[SEC. 3.** The Congress hereby finds (1) that the practice of soring horses for the purposes of affecting their natural gait is cruel and inhumane treatment of such animals; (2) that the movement of sored horses in commerce adversely affects and burdens such commerce; and (3) that horses which are sored compete unfairly with horses moved in commerce which are not sored.]

*Sec. 3. The Congress finds and declares that—*

(1) *the soring of horses is cruel and inhumane;*

(2) *horses shown or exhibited which are sore, where such soreness improves the performance of such horse, compete unfairly with horses which are not sore;*

(3) *the movement, showing, exhibition, or sale of sore horses in intrastate commerce adversely affects and burdens interstate and foreign commerce;*

(4) *all horses which are subject to regulation under this act are either in interstate or foreign commerce or substantially affect such commerce; and*

(5) *regulation under this act by the Secretary is appropriate to prevent and eliminate burdens upon commerce and to effectively regulate commerce.*

**[SEC. 4.** (a) It shall be unlawful for any person to ship, transport, or otherwise move, or deliver or receive for movement, in commerce, for the purpose of showing or exhibition, any horse which such person has reason to believe is sored.

**[**(b) It shall be unlawful for any person to show or exhibit, or enter for the purpose of showing or exhibiting, in any horse show or exhibition, any horse which is sored if that horse or any other horse was moved to such show or exhibition in commerce.

**[**(c) It shall be unlawful for any person to conduct any horse show or exhibition in which there is shown or exhibited a horse which is sored, if any horse was moved to such show or exhibition in commerce,

unless such person can establish that he has complied with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the showing or exhibition of horses which have been sored.]

*Sec. 4. (a) The management of any horse show or horse exhibition shall disqualify any horse from being shown or exhibited (1) which is sore or (2) if the management has been notified by a person appointed in accordance with regulations under subsection (c) or by the Secretary that the horse is sore.*

(b) *The management of any horse sale or auction shall prohibit the sale or auction or exhibition for the purpose of sale of any horse (1) which is sore or (2) if the management has been notified by a person appointed in accordance with regulations under subsection (c) or by the Secretary that the horse is sore.*

(c) *The Secretary shall prescribe by regulation requirements for the appointment by the management of any horse show, horse exhibition, or horse sale or auction of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purposes of enforcing this Act. Such requirements shall prohibit the appointment of persons who, after notice and opportunity for a hearing, have been disqualified by the Secretary to make such detection, diagnosis, or inspection. Appointment of a person in accordance with the requirements prescribed under this subsection shall not be construed as authorizing such person to conduct inspections in a manner other than that prescribed for inspections by the Secretary (or the Secretary's representative) under subsection (e).*

(d) *The management of a horse show, horse exhibition, or horse sale or auction shall establish and maintain such records, make such reports, and provide such information as the Secretary may by regulation reasonably require for the purposes of implementing this Act or to determine compliance with this Act. Upon request of an officer or employee duly designated by the Secretary, such management shall permit entry at all reasonable times for the inspection and copying (on or off the premises) of records required to be maintained under this subsection.*

(e) *For purposes of enforcement of this Act (including any regulation promulgated under this Act) the Secretary, or any representative of the Secretary duly designated by the Secretary, may inspect any horse show, horse exhibition, or horse sale or auction or any horse at any such show, exhibition, sale, or auction. Such an inspection may only be made upon presenting appropriate credentials. Each such inspection shall be commenced and completed with reasonable promptness and shall be conducted within reasonable limits and in a reasonable manner. An inspection under this subsection shall extend to all things (including records) bearing on whether the requirements of this Act have been complied with.*

**[SEC. 5.** (a) Any representative of the Secretary of Agriculture is authorized to make such inspections of any horses which are being moved, or have been moved, in commerce and to make such inspections of any horses at any horse show or exhibition within the United States to which any horse was moved in commerce, as he deems necessary for the effective enforcement of this Act, and the owner or other person having custody of any such horse shall afford such representative access to and opportunity to so inspect such horse.

[(b) The person or persons in charge of any horse show or exhibition within the United States, or such other person or persons as the Secretary of Agriculture (hereinafter referred to in this Act as the "Secretary") may by regulation designate, shall keep such records as the Secretary may by regulation prescribe. The person or persons in charge of any horse show or exhibition, or such other person or persons as the Secretary may by regulation designate, shall afford the representatives of the Secretary access to and opportunity to inspect and copy such records at all reasonable times.]

*Sec. 5. The following conduct is prohibited:*

(1) *The shipping, transporting, moving, delivering, or receiving of any horse which is sore with reason to believe that such horse while it is sore may be shown, exhibited, entered for the purpose of being shown or exhibited, sold, auctioned, or offered for sale, in any horse show, horse exhibition, or horse sale or auction; except that this paragraph does not apply to the shipping, transporting, moving, delivering, or receiving of any horse by a contract carrier or an employee thereof in the usual course of the carrier's business or employee's employment unless the carrier or employee has reason to believe that such horse is sore.*

(2) *The (A) showing or exhibiting, in any horse show or horse exhibition, of any horse which is sore, (B) entering for the purpose of showing or exhibiting in any horse show or horse exhibition, any horse which is sore, (C) selling, auctioning, or offering for sale, in any horse sale or auction, any horse which is sore, and (D) allowing any activity described in clause (A), (B), or (C) respecting a horse which is sore by the owner of such horse.*

(3) *The failure by the management of any horse show or horse exhibition, which does not appoint and retain a person in accordance with section 4(c) of this Act, to disqualify from being shown or exhibited any horse which is sore.*

(4) *The failure by the management of any horse sale or auction, which does not appoint and retain a qualified person in accordance with section 4(c) of this Act, to prohibit the sale, offering for sale, or auction of any horse which is sore.*

(5) *The failure by the management of any horse show or horse exhibition, which has appointed and retained a person in accordance with section 4(c) of this Act, to disqualify from being shown or exhibited any horse (A) which is sore, and (B) after having been notified by such person or the Secretary that the horse is sore or after otherwise having knowledge that the horse is sore.*

(6) *The failure by the management of any horse sale or auction, which has appointed and retained a person in accordance with section 4(c) of this Act, to prohibit the sale, offering for sale, or auction of any horse (A) which is sore and (B) after having been notified by such person or the Secretary or after otherwise having knowledge that the horse is sore.*

(7) *The showing or exhibiting at a horse show or horse exhibition; the selling or auctioning at a horse sale or auction; the allowing to be shown, exhibited, or sold at a horse show, horse exhibition, or horse sale or auction; the entering for the purpose of showing or exhibiting in any horse show or horse exhibition;*

*or offering for sale at a horse sale or auction, any horse which is wearing or bearing any equipment, device, paraphernalia, or substance which the Secretary by regulation under section 9 prohibits to prevent the soring of horses.*

(8) *The failing to establish, maintain, or submit records, notices, reports, or other information required under section 4.*

(9) *The failure or refusal to permit access to or copying of records, or the failure or refusal to permit entry or inspection, as require by section 4.*

(10) *The removal of any marking required by the Secretary to identify a horse as being detained.*

(11) *The failure or refusal to provide the Secretary with adequate space or facilities, as the Secretary may by regulation under section 9 prescribe, in which to conduct inspections or any other activity authorized to be performed by the Secretary under this Act.*

[**SEC. 6. (a)** Any person who violates any provision of this Act or any regulation issued thereunder, other than a violation the penalty for which is prescribed by subsection (b) of this section, shall be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed under this subsection, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

[(b) Any person who willfully violates any provision of this Act or any regulation issued thereunder shall be fined not more than \$2,000 or imprisoned not more than six months, or both.]

*Sec. 6. (a) (1) Except as provided in paragraph (2) of this subsection, any person who knowingly violates section 5 shall, upon conviction thereof, be fined not more than \$3,000, or imprisoned for not more than one year, or both.*

(2) (A) *If any person knowingly violates section 5, after one or more prior convictions of such person for such a violation have become final, such person shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned for not more than two years, or both.*

(B) *Any person who knowingly makes, or causes to made, a false entry or statement in any report required under this Act; who knowingly makes, or causes to be made, any false entry in any account, record, or memorandum required to be established and maintained by any person or in any notification or other information required to be submitted to the Secretary under section 4 of this Act; who knowingly neglects or fails to make or cause to be made, full, true, and correct entries in such accounts, records, memoranda, notification, or other materials; who knowingly removes any such documentary evidence out of the jurisdiction of the United States; who knowingly mutilates, alters, or by any other means falsifies any such documentary evidence; or who knowingly refuses to submit any such documentary evidence to the Secretary for inspection and copying shall be guilty of an*

offense against the United States, and upon conviction thereof shall be fined not more than \$5,000, or imprisoned for not more than three years, or both.

(C) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than \$5,000, or imprisoned not more than three years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punishable as provided under sections 1111 and 1112 of title 18, United States Code.

(b) (1) Any person who violates section 5 of this Act shall be liable to the United States for a civil penalty of not more than \$2,000 for each violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation. The amount of such civil penalty shall be assessed by the Secretary by written order. In determining the amount of such penalty, the Secretary shall take into account all factors relevant to such determination, including the nature, circumstances, extent, and gravity of the prohibited conduct and, with respect to the person found to have engaged in such conduct, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty assessed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

(c) In addition to any fine, imprisonment, or civil penalty authorized under this section, any person who was convicted under subsection (a) or who paid a civil penalty assessed under subsection (b) or is subject to a final order under such subsection assessing a civil penalty for any violation of any provision of this Act or any regu-

lation issued under this Act may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of not less than one year for the first violation and not less than five years for any subsequent violation. Any person who knowingly fails to obey an order of disqualification shall be subject to a civil penalty of not more than \$3,000 for each violation. Any horse show, horse exhibition, or horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or otherwise to participate in any horse show, horse exhibition, or horse sale or auction in violation of an order shall be subject to a civil penalty of not more than \$3,000 for each violation. The provisions of subsection (b) respecting the assessment, review, collection, and compromise, modification, and remission of a civil penalty apply with respect to civil penalties under this subsection.

(d) (1) The Secretary may require by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents relating to any matter under investigation or the subject of a proceeding. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(2) The attendance of witnesses, and the production of books, papers, and documents, may be required at any designated place from any place in the United States. In case of disobedience to a subpoena the Secretary, or any party to a proceeding before the Secretary, may invoke the aid of any appropriate district court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this Act.

(3) The Secretary may order testimony to be taken by deposition under oath in any proceeding or investigation pending before him, at any stage of the proceeding or investigation. Depositions may be taken before any person designated by the Secretary who has power to administer oaths. The Secretary may also require the production of books, papers, and documents at the taking of depositions.

(4) Witnesses whose depositions are taken and the persons taking them shall be entitled to the same fees as paid for like services in the courts of the United States or in other jurisdictions in which they may appear.

(5) In any civil or criminal action to enforce this Act or any regulation under this Act a horse shall be presumed to be a horse which is sore if it manifests abnormal sensitivity or inflammation in both of its forelimbs or both of its hindlimbs.

(6) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in subsection (b) of this section.

(e)(1) *The Secretary may detain (for a period not to exceed twenty-four hours) for examination, testing, or the taking of evidence, any horse at any horse show, horse exhibition, or horse sale or auction which is sore or which the Secretary has probable cause to believe is sore. The Secretary may require the temporary marking of any horse during the period of its detention for the purpose of identifying the horse as detained. A horse which is detained subject to this paragraph shall not be moved by any person from the place it is so detained except as authorized by the Secretary or until the expiration of the detention period applicable to the horse.*

(2) *Any equipment, device, paraphernalia, or substance which was used in violation of any provision of this Act or any regulation issued under this Act or which contributed to the soring of any horse at or prior to any horse show, horse exhibition, or horse sale or auction, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such equipment, device, paraphernalia, or substance, in any United States district court within the jurisdiction of which such equipment, device, paraphernalia, or substance is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.*

SEC. 8. (a) *The Secretary, in carrying out the provisions of this Act, shall utilize to the maximum extent practicable, the existing personnel and facilities of the Department of Agriculture. The Secretary is further authorized to utilize the officers and employees of any State, with its consent, and with or without reimbursement, to assist him in carrying out the provisions of this Act.*

(b) *The Secretary may, upon request, provide technical and other nonfinancial assistance (including the lending of equipment on such terms and conditions as the Secretary determines is appropriate) to any State to assist it in administering and enforcing any law of such State designed to prohibit conduct described in section 5.*

\* \* \* \* \*

SEC. 11. *On or before the expiration of thirty calendar months following the date of enactment of this Act, and every [twenty-four-calendar-month period] twelve calendar months thereafter, the Secretary shall submit to the Congress a report upon the matters covered by this Act, including enforcement and other actions taken thereunder, together with such recommendations for legislative and other action as he deems appropriate.*

【SEC. 12. *There are hereby authorized to be appropriated such sums, not to exceed \$100,000 annually, as may be necessary to carry out the provisions of this Act.*】

*SEC. 12. There are authorized to be appropriated to carry out this Act \$125,000 for the period beginning July 1, 1976, and ending September 30, 1976; and for the fiscal year beginning October 1, 1976, and for each fiscal year thereafter there are authorized to be appropriated such sums, not to exceed 500,000, as may be necessary to carry out this Act.<sup>1</sup>*

<sup>1</sup> Effective July 1, 1976.

# Ninety-fourth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

### An Act

To revise and extend the Horse Protection Act of 1970.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

SECTION 1. (a) This Act may be cited as the "Horse Protection Act Amendments of 1976".

(b) Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Horse Protection Act of 1970.

SEC. 2. The first section is amended by striking out "of 1970".

SEC. 3. Section 2 (15 U.S.C. 1821) is amended to read as follows:

"SEC. 2. As used in this Act unless the context otherwise requires:

"(1) The term 'management' means any person who organizes, exercises control over, or administers or who is responsible for organizing, directing, or administering.

"(2) The term 'Secretary' means the Secretary of Agriculture.

"(3) The term 'sore' when used to describe a horse means that—

"(A) an irritating or blistering agent has been applied, internally or externally, by a person to any limb of a horse,

"(B) any burn, cut, or laceration has been inflicted by a person on any limb of a horse,

"(C) any tack, nail, screw, or chemical agent has been injected by a person into or used by a person on any limb of a horse, or

"(D) any other substance or device has been used by a person on any limb of a horse or a person has engaged in a practice involving a horse,

and, as a result of such application, infliction, injection, use, or practice, such horse suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of a horse by or under the supervision of a person licensed to practice veterinary medicine in the State in which such treatment was given.

"(4) The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

SEC. 4. Section 3 (15 U.S.C. 1822) is amended to read as follows:

"SEC. 3. The Congress finds and declares that—

"(1) the soring of horses is cruel and inhumane;

"(2) horses shown or exhibited which are sore, where such soreness improves the performance of such horse, compete unfairly with horses which are not sore;

"(3) the movement, showing, exhibition, or sale of sore horses in intrastate commerce adversely affects and burdens interstate and foreign commerce;

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“(4) all horses which are subject to regulation under this Act are either in interstate or foreign commerce or substantially affect such commerce; and

“(5) regulation under this Act by the Secretary is appropriate to prevent and eliminate burdens upon commerce and to effectively regulate commerce.”

SEC. 5. Section 4 (15 U.S.C. 1823) is amended to read as follows:

“Sec. 4. (a) The management of any horse show or horse exhibition shall disqualify any horse from being shown or exhibited (1) which is sore or (2) if the management has been notified by a person appointed in accordance with regulations under subsection (c) or by the Secretary that the horse is sore.

“(b) The management of any horse sale or auction shall prohibit the sale or auction or exhibition for the purpose of sale of any horse (1) which is sore or (2) if the management has been notified by a person appointed in accordance with regulations under subsection (c) or by the Secretary that the horse is sore.

“(c) The Secretary shall prescribe by regulation requirements for the appointment by the management of any horse show, horse exhibition, or horse sale or auction of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purposes of enforcing this Act. Such requirements shall prohibit the appointment of persons who, after notice and opportunity for a hearing, have been disqualified by the Secretary to make such detection, diagnosis, or inspection. Appointment of a person in accordance with the requirements prescribed under this subsection shall not be construed as authorizing such person to conduct inspections in a manner other than that prescribed for inspections by the Secretary (or the Secretary's representative) under subsection (e).

“(d) The management of a horse show, horse exhibition, or horse sale or auction shall establish and maintain such records, make such reports, and provide such information as the Secretary may by regulation reasonably require for the purposes of implementing this Act or to determine compliance with this Act. Upon request of an officer or employee duly designated by the Secretary, such management shall permit entry at all reasonable times for the inspection and copying (on or off the premises) of records required to be maintained under this subsection.

“(e) For purposes of enforcement of this Act (including any regulation promulgated under this Act) the Secretary, or any representative of the Secretary duly designated by the Secretary, may inspect any horse show, horse exhibition, or horse sale or auction or any horse at any such show, exhibition, sale, or auction. Such an inspection may only be made upon presenting appropriate credentials. Each such inspection shall be commenced and completed with reasonable promptness and shall be conducted within reasonable limits and in a reasonable manner. An inspection under this subsection shall extend to all things (including records) bearing on whether the requirements of this Act have been complied with.”

SEC. 6. Section 5 (15 U.S.C. 1824) is amended to read as follows:

“Sec. 5. The following conduct is prohibited:

“(1) The shipping, transporting, moving, delivering, or receiving of any horse which is sore with reason to believe that such horse while it is sore may be shown, exhibited, entered for the purpose of being shown or exhibited, sold, auctioned, or offered

for sale, in any horse show, horse exhibition, or horse sale or auction; except that this paragraph does not apply to the shipping, transporting, moving, delivering, or receiving of any horse by a common or contract carrier or an employee thereof in the usual course of the carrier's business or employee's employment unless the carrier or employee has reason to believe that such horse is sore.

"(2) The (A) showing or exhibiting, in any horse show or horse exhibition, of any horse which is sore, (B) entering for the purpose of showing or exhibiting in any horse show or horse exhibition, any horse which is sore, (C) selling, auctioning, or offering for sale, in any horse sale or auction, any horse which is sore, and (D) allowing any activity described in clause (A), (B), or (C) respecting a horse which is sore by the owner of such horse.

"(3) The failure by the management of any horse show or horse exhibition, which does not appoint and retain a person in accordance with section 4(c) of this Act, to disqualify from being shown or exhibited any horse which is sore.

"(4) The failure by the management of any horse sale or auction, which does not appoint and retain a qualified person in accordance with section 4(c) of this Act, to prohibit the sale, offering for sale, or auction of any horse which is sore.

"(5) The failure by the management of any horse show or horse exhibition, which has appointed and retained a person in accordance with section 4(c) of this Act, to disqualify from being shown or exhibited any horse (A) which is sore, and (B) after having been notified by such person or the Secretary that the horse is sore or after otherwise having knowledge that the horse is sore.

"(6) The failure by the management of any horse sale or auction which has appointed and retained a person in accordance with section 4(c) of this Act, to prohibit the sale, offering for sale, or auction of any horse (A) which is sore, and (B) after having been notified by such person or the Secretary or after otherwise having knowledge that the horse is sore.

"(7) The showing or exhibiting at a horse show or horse exhibition; the selling or auctioning at a horse sale or auction; the allowing to be shown, exhibited, or sold at a horse show, horse exhibition, or horse sale or auction; the entering for the purpose of showing or exhibiting in any horse show or horse exhibition; or offering for sale at a horse sale or auction, any horse which is wearing or bearing any equipment, device, paraphernalia, or substance which the Secretary by regulation under section 9 prohibits to prevent the soring of horses.

"(8) The failing to establish, maintain, or submit records, notices, reports, or other information required under section 4.

"(9) The failure or refusal to permit access to or copying of records, or the failure or refusal to permit entry or inspection, as required by section 4.

"(10) The removal of any marking required by the Secretary to identify a horse as being detained.

"(11) The failure or refusal to provide the Secretary with adequate space or facilities, as the Secretary may by regulation under section 9 prescribe, in which to conduct inspections or any other activity authorized to be performed by the Secretary under this Act."

SEC. 7. Section 6 (15 U.S.C. 1825) is amended to read as follows:

“SEC. 6. (a) (1) Except as provided in paragraph (2) of this subsection, any person who knowingly violates section 5 shall, upon conviction thereof, be fined not more than \$3,000, or imprisoned for not more than one year, or both.

“(2) (A) If any person knowingly violates section 5, after one or more prior convictions of such person for such a violation have become final, such person shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned for not more than two years, or both.

“(B) Any person who knowingly makes, or causes to be made, a false entry or statement in any report required under this Act; who knowingly makes, or causes to be made, any false entry in any account, record, or memorandum required to be established and maintained by any person or in any notification or other information required to be submitted to the Secretary under section 4 of this Act; who knowingly neglects or fails to make or cause to be made, full, true, and correct entries in such accounts, records, memoranda, notification, or other materials; who knowingly removes any such documentary evidence out of the jurisdiction of the United States; who knowingly mutilates, alters, or by any other means falsifies any such documentary evidence; or who knowingly refuses to submit any such documentary evidence to the Secretary for inspection and copying shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than \$5,000, or imprisoned for not more than three years, or both.

“(C) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than \$5,000, or imprisoned not more than three years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punishable as provided under sections 1111 and 1112 of title 18, United States Code.

“(b) (1) Any person who violates section 5 of this Act shall be liable to the United States for a civil penalty of not more than \$2,000 for each violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation. The amount of such civil penalty shall be assessed by the Secretary by written order. In determining the amount of such penalty, the Secretary shall take into account all factors relevant to such determination, including the nature, circumstances, extent, and gravity of the prohibited conduct and, with respect to the person found to have engaged in such conduct, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

“(2) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court

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a certified copy of the record upon which such violation was found and such penalty assessed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence.

“(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

“(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

“(c) In addition to any fine, imprisonment, or civil penalty authorized under this section, any person who was convicted under subsection (a) or who paid a civil penalty assessed under subsection (b) or is subject to a final order under such subsection assessing a civil penalty for any violation of any provision of this Act or any regulation issued under this Act may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of not less than one year for the first violation and not less than five years for any subsequent violation. Any person who knowingly fails to obey an order of disqualification shall be subject to a civil penalty of not more than \$3,000 for each violation. Any horse show, horse exhibition, or horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or otherwise to participate in any horse show, horse exhibition, or horse sale or auction in violation of an order shall be subject to a civil penalty of not more than \$3,000 for each violation. The provisions of subsection (b) respecting the assessment, review, collection, and compromise, modification, and remission of a civil penalty apply with respect to civil penalties under this subsection.

“(d) (1) The Secretary may require by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents relating to any matter under investigation or the subject of a proceeding. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

“(2) The attendance of witnesses, and the production of books, papers, and documents, may be required at any designated place from any place in the United States. In case of disobedience to a subpoena the Secretary, or any party to a proceeding before the Secretary, may invoke the aid of any appropriate district court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this Act.

“(3) The Secretary may order testimony to be taken by deposition under oath in any proceeding or investigation pending before him, at any stage of the proceeding or investigation. Depositions may be taken

before any person designated by the Secretary who has power to administer oaths. The Secretary may also require the production of books, papers, and documents at the taking of depositions.

“(4) Witnesses whose depositions are taken and the persons taking them shall be entitled to the same fees as paid for like services in the courts of the United States or in other jurisdictions in which they may appear.

“(5) In any civil or criminal action to enforce this Act or any regulation under this Act a horse shall be presumed to be a horse which is sore if it manifests abnormal sensitivity or inflammation in both of its forelimbs or both of its hindlimbs.

“(6) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in subsection (b) of this section.

“(e) (1) The Secretary may detain (for a period not to exceed twenty-four hours) for examination, testing, or the taking of evidence, any horse at any horse show, horse exhibition, or horse sale or auction which is sore or which the Secretary has probable cause to believe is sore. The Secretary may require the temporary marking of any horse during the period of its detention for the purpose of identifying the horse as detained. A horse which is detained subject to this paragraph shall not be moved by any person from the place it is so detained except as authorized by the Secretary or until the expiration of the detention period applicable to the horse.

“(2) Any equipment, device, paraphernalia, or substance which was used in violation of any provision of this Act or any regulation issued under this Act or which contributed to the soring of any horse at or prior to any horse show, horse exhibition, or horse sale or auction, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such equipment, device, paraphernalia, or substance, in any United States district court within the jurisdiction of which such equipment, device, paraphernalia, or substance is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.”

SEC. 8. Section 8 (15 U.S.C. 1827) is amended by inserting “(a)” after “SEC. 8.” and by adding at the end of such section the following:

“(b) The Secretary may, upon request, provide technical and other nonfinancial assistance (including the lending of equipment on such terms and conditions as the Secretary determines is appropriate) to any State to assist it in administering and enforcing any law of such State designed to prohibit conduct described in section 5.”

SEC. 9. Section 11 (15 U.S.C. 1830) is amended by striking out “twenty-four calendar-month period” and inserting in lieu thereof “twelve calendar months”.

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Sec. 10. Effective July 1, 1976, section 12 (15 U.S.C. 1831) is amended to read as follows:

“Sec. 12. There are authorized to be appropriated to carry out this Act \$125,000 for the period beginning July 1, 1976, and ending September 30, 1976; and for the fiscal year beginning October 1, 1976, and for each fiscal year thereafter there are authorized to be appropriated such sums, not to exceed \$500,000, as may be necessary to carry out this Act.”

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

# Ninety-fourth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

### Concurrent Resolution

*Resolved by the Senate (the House of Representatives concurring),  
That in the enrollment of the bill (S. 811), to revise and extend the  
Horse Protection Act of 1970, the Secretary of the Senate shall make  
the following corrections:*

*(1) In the section 2(4) of the Horse Protection Act of 1970,  
as added by section 3 of the bill, strike out "and Guam" and insert  
in lieu thereof "Guam".*

*(2) In the section 3(4) of the Horse Protection Act of 1970,  
as added by section 4 of the bill, strike out "neither" and insert  
in lieu thereof "either".*

Attest:

*Secretary of the Senate.*

Attest:

*Clerk of the House of Representatives.*

JULY 14, 1976

Office of the White House Press Secretary

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THE WHITE HOUSE

## STATEMENT BY THE PRESIDENT

I have approved S. 811 which provides amendments to the Horse Protection Act of 1970.

This Act is intended to ban the clearly inhumane practice of intentionally injuring the limbs and hoofs of horses in order to induce the high-stepping gait looked for in certain horse show events.

The amendments contained in S. 811 strengthen the Act in some respects. Unfortunately, however, the approach that the Congress continues to take to eradicate this heinous practice fails to comprehend the real problem.

The practice exists, quite simply, because its perpetrators can make a profit in the horse show circuit by short-cutting the careful breeding and patient training techniques which are normally required to produce high quality show prospects. Until the management of public horse shows and sales assumes -- or is forced by law to assume -- the responsibility of ensuring that these cruelties are not being practiced upon those horses taking part in their sponsored events, real reform will not be assured.

The Department of Agriculture urged the Congress to place the onus on the industry where it belongs, rather than upon Federal regulators. The proposal would have required that the management of every show put in place an inspection system -- using independent, qualified inspectors -- under penalty of law. The Department could then monitor the industry to ensure that the system operated properly. However, the Congress -- in a mistaken belief that the addition of more Federal enforcement officials will solve the problem -- has ignored the real problem and simply authorized more money and stiffened penalties.

I continue to be committed to achieving meaningful reform by compelling this industry to police itself properly. To that end I pledge cooperation with the Congress in seeking continued improvements in the law which will place the primary responsibility for enforcement with the industry itself.

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