



## CRS Report for Congress

# Horse Slaughter Prevention Bills and Issues

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### Summary

In 2006, nearly 105,000 horses were slaughtered for human food in two Texas plants and one in Illinois, mainly for European and Asian consumers. The 109<sup>th</sup> Congress voted to limit the use of FY2006 appropriated funds for such slaughter, but it continued, funded by industry user fees. Debate revolves around the acceptability of horse slaughter, and how to care for and/or humanely dispose of horses if they no longer went for human food. Bills in the 110<sup>th</sup> Congress to ban horse slaughter include H.R. 503 and S. 311. Meanwhile, a federal appeals court recently ruled that the Texas plants could be prosecuted for violating a 1949 state law barring the sale of horsemeat.

### Overview

Nearly 105,000 horses were slaughtered for human food in 2006, all in two Texas plants and a third in Illinois, according to the U.S. Department of Agriculture (USDA). Virtually all the horse meat was for export; the largest markets were France, Belgium, Switzerland, Italy, Japan, and Mexico. The United States exported more than 17,000 metric tons of horse meat valued at about \$65 million in 2006. Most of these horses are raised for other purposes — the majority for riding — but are no longer wanted by owners; they are collected by dealers who supply the foreign-owned plants from auctions, boarding facilities, and elsewhere. Although U.S. horse slaughter had been rising since 2002, it remained below levels of the 1980s, when more than 300,000 were processed annually in at least 16 federally inspected plants.

The U.N. Food and Agriculture Organization estimates that Canada and Mexico respectively slaughtered a total of 88,000 and 626,000 head for horsemeat in 2005; a portion of these were shipped from the United States. (According to USDA, the United States in 2005 exported more than 21,000 live horses to Canada and more than 11,000 to Mexico. Many are believed to have been destined for slaughter for food.)

### Legal Authorities

**Federal Law.** Federal laws neither ban the use of equines for food nor set on-farm care standards. Protection usually is subject to varying state and local laws. Some of

these laws may set care standards, although more are likely to be anti-cruelty measures. However, U.S. horse slaughter plants are subject to the Federal Meat Inspection Act (FMIA) of 1906, as amended (21 U.S.C. 601 *et seq.*), which requires USDA to inspect all cattle, sheep, swine, goats, and equines slaughtered and processed into products for human food. This act, administered by USDA's Food Safety and Inspection Service (FSIS), aims to ensure that meat and meat products from these animals are safe, wholesome, and properly labeled. FSIS safety inspection is mandatory, and most costs must be covered by appropriated funds, except for overtime and holiday periods. Meat inspectors also are charged with enforcing the Humane Slaughter Act (7 U.S.C. 1901 *et seq.*), requiring that livestock (but not poultry) be rendered unconscious prior to slaughter.

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

Horses may have to be shipped long distances to reach the few plants now slaughtering them. Horse practitioners and welfare groups gained passage of language in the 1996 farm bill (P.L. 104-127, Title IX-A, Commercial Transportation of Equine for Slaughter, 7 U.S.C. note) that authorizes the Secretary of Agriculture to issue guidelines for regulating such transport, subject to available appropriations. USDA's Animal and Plant Health Inspection Service (APHIS) developed the guidelines with the cooperation of horse groups, and they became effective February 5, 2002.<sup>1</sup>

**Texas and Illinois Developments.** Several states — including Texas — have laws aimed at preventing the slaughter of horses for human food. A federal lawsuit filed by the owners of the two Texas slaughter plants, Beltex Corporation and Dallas Crown, Inc., sought to clarify that the Texas state law banning the sale of horsemeat, first passed in 1949, was not enforceable and that they should not be prosecuted. The U.S. District Court for the Northern District of Texas in Fort Worth had earlier agreed with the plants' owners that the law had been repealed, was preempted by the FMIA, and violated the dormant Commerce Clause of the U.S. Constitution. However, on January 19, 2007, a panel of the U.S. Court of Appeals for the Fifth Circuit rejected all three arguments in the lower court's ruling, declaring the Texas law to be in force and clearing the way for the state attorney general to prosecute the plant owners if they continued to operate.<sup>2</sup>

The two plants reportedly have since ceased shipping horsemeat for human food. They could seek a reversal in the U.S. Supreme Court; meanwhile, state legislation (H.B. 2476; S.B. 1742) to legalize their operations is pending. Elsewhere, an Illinois bill (H.B. 1711) has been introduced which could make it illegal for the remaining horse slaughter plant to operate there.

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<sup>1</sup> Other federal laws protect horses used in research, and ban "soring" for shows. See CRS Report 94-731 A, *Brief Summaries of Federal Animal Protection Statutes*, by Henry Cohen.

<sup>2</sup> *Empacadora De Carnes De Fresnillo v. Curry*, No. 05-11499, 2007 U.S. App. LEXIS 1178 (5<sup>th</sup> Cir., Jan. 19, 2007).

## Recent Federal Legislation

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

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

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

On February 8, 2006, USDA-FSIS cited the AMA authority to publish such an interim rule. FSIS amended existing regulations that apply to "exotic species" (bison, deer, etc.), adding a new subpart that applies to horses starting March 10, 2006. Under the new rule, USDA uses many of the same FMIA guidelines for ante-mortem horse inspection. Also, post-mortem horse inspection could continue under the FMIA, using appropriated funds.<sup>3</sup> Congressional supporters of the original Sweeney/Ensign amendment objected to the rule, declaring that it circumvents their clear intent to halt horse slaughter. Several animal welfare groups sued to challenge the rule, but it has remained in effect.<sup>4</sup>

**Horse Protection Act.** Representative Schakowsky and Senator Landrieu have introduced bills into the 110<sup>th</sup> Congress (H.R. 503, S. 311) to prohibit the movement and slaughter of horses for human food. These measures, which mirror proposals (H.R. 503; S. 1915) in the 109<sup>th</sup> Congress by Representative Sweeney and Senator Ensign, would

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<sup>3</sup> USDA's rule estimated that the new fees would amount to between \$68,000 to \$102,000 during FY2006. Total salary costs for the six federal inspectors who staff the three horse processing plants are about \$400,000 per year; this excludes some expenses such as lab fees and the costs of relief inspectors. Source: May 16, 2006 telephone communication with FSIS budget official.

<sup>4</sup> *Humane Society v. Johanns*, No. 1:06CV00265 (D.D.C. Feb. 14, 2006). For a February 17, 2006, general distribution memorandum that discusses possible legal arguments for and against the rule, contact Stephen R. Vina at 7-8079 or Geoffrey S. Becker at 7-7287.

amend the Horse Protection Act (15 U.S.C. §1821 *et seq.*), which currently makes it a crime to exhibit or transport for the purpose of exhibition any “sore” horse (i.e., one whose feet have been injured to alter its gait). The Schakowsky and Landrieu bills would prohibit the “shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of any horse or other equine to be slaughtered for human consumption.” The bills would permit USDA to detain for examination and evidence any horse for which it has probable cause that the animal will be slaughtered for food. Violators would be subject to specified criminal and civil penalties and prison terms. The bills would increase the authorization of appropriations for administering the act from \$500,000 to \$5 million annually.

In the 109<sup>th</sup> Congress, the full House had approved H.R. 503 by a 263-146 vote on September 7, 2006, turning aside opposition, and major changes made earlier, by the House Agriculture Committee. Senate action on S. 1915 did not occur.

In the 108<sup>th</sup> Congress, proposed bills (H.R. 857 and S. 2352) to halt horse slaughter differed in detail from the more recent measures. For example, these earlier bills did not amend the Horse Protection Act. H.R. 857 and S. 2352 also explicitly would have required officials to work with animal welfare societies and animal control departments to place confiscated horses temporarily with a nonprofit animal rescue facility, required the owner of a confiscated horse to post a bond sufficient to provide for 60 days of care, and required the Secretary to make grants to specified animal rescue facilities willing to accept confiscated horses.

**Wild Horses and Burros.** A somewhat related issue revolves around provisions of the Wild Free-Roaming Horses and Burros Act of 1971 (16 U.S.C. §1331 *et seq.*), which seeks to protect wild horses and burros on federal lands. In the 108th Congress, a provision in the Consolidated Appropriations Act for FY2005 (§142, P.L. 108-447) gave federal agencies new authority to sell, “without limitation,” excess animals (or their remains) that essentially are deemed too old (more than 10 years old) or otherwise unable to be adopted (tried unsuccessfully at least three times). A second change removed provisions of law that had barred wild horses and burros and their remains from being sold for processing into commercial products. A third change removed criminal penalties for processing into commercial products the remains of a wild horse or burro, if it is sold under the new authority. Also, the law did not expressly prohibit the Interior Department’s Bureau of Land Management (BLM) from slaughtering healthy wild horses and burros, as had annual appropriations bills apparently each year starting in FY1988.<sup>5</sup>

These changes were supported as a cost-effective way to help the agencies achieve “appropriate management levels” (AMLs), to improve the health of the animals, protect range resources, and restore a natural ecological balance on federal lands. The changes have been opposed, particularly by animal rights activists, as potentially leading to the slaughter of large numbers of healthy animals. According to BLM, about 8,200 animals are available for sale, with 1,700 having been sold and delivered as of March 2006. More than 31,000 wild horses and burros are on the range, with the national AML set at just above 28,000, according to BLM estimates. BLM manages another 25,000 animals in holding facilities. A bill (H.R. 249) in the 110<sup>th</sup> Congress to restore the ban on the

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<sup>5</sup> CRS Report RL33596, *Federal Lands Managed by the Bureau of Land Management (BLM) and the Forest Service*, by Ross W. Gorte and Carol Hardy Vincent (coordinators), from which this section was adapted.

commercial sale and slaughter of wild horses and burros was reported favorably by the House Natural Resources Committee on March 7, 2007.

## Selected Arguments

Most U.S. and Canadian consumers view horses as performance and companion animals rather than food. Horse protection and animal welfare groups contend that Americans overwhelmingly favor an end to horse slaughter for human food, a practice such groups have called cruel and unnecessary. According to these groups, horses are transported long distances often in deplorable conditions in poorly equipped trucks and trailers, where they are exposed to bad weather and often inadequate rest, food, and water.

However, a veterinary journal article counters: “Market demand for horsemeat for human consumption is almost certain to continue and may grow in the foreseeable future. It is therefore proper and necessary that we continue to work with national and international groups to provide humane care for horses intended for slaughter and maintain as much consensus and practicality on these issues as possible.”<sup>6</sup>

One concern expressed by opponents of a ban on horse slaughter is that “rescued” horses are more likely to become neglected and abused by owners who lack the knowledge, financial resources, and/or interest to care for them. At the same time, the existing U.S. horse infrastructure cannot absorb the large numbers of animals that would be confiscated or otherwise diverted from slaughter as a result of a slaughter prohibition, opponents of such a ban believe. The American Horse Protection Association (AHPA) is opposed to the slaughter of horses for food but did not endorse the slaughter ban bills in the 108<sup>th</sup> Congress. AHPA, which maintains a list of U.S. and foreign horse sanctuaries, had observed that not all sanctuaries may have the means or business skills to take in large numbers of horses, and that no nationwide standard-setting or oversight system exists for them.<sup>7</sup> A Texas rescue group stated: “Some equine rescues are large organizations with a system of checks that keep everyone honest. Others may be small one or two person operations. There are no national oversight organizations that can verify the honesty of a nonprofit equine rescue.”<sup>8</sup>

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

Some, including the Humane Society of the United States (HSUS), have observed that equine shelters are less well-established than cat and dog shelters, which often are associated with local governments and humane societies. Citing the “extreme costs” and staff time needed to shelter horses, HSUS warned of needing to be aware of “distinctions

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<sup>6</sup> Reece and others, “Equine Slaughter Transport — Update on Research and Regulations,” *Journal of the American Veterinary Medical Association*, April 15, 2000.

<sup>7</sup> Personal communication, May 4, 2004, AHPA.

<sup>8</sup> Habitat for Horses, Inc., Texas, at [<http://www.habitatforhorses.org/rescues/rescuelinks.html>].

between sheltering horses and sheltering other companion animals.”<sup>9</sup> The American Association of Equine Practitioners (AAEP) estimated that the cost of a horse’s basic care approximates \$1,825 annually, exclusive of veterinary and farrier care. A more recent study estimated the annual cost of caring for an unwanted horse at \$2,340.<sup>10</sup>

NHPC has argued: “Not every horse currently going to slaughter will be rescued by one of these non-profit organizations, but many horses will be kept longer, will be sold directly to a new owner ... or will be humanely euthanized by a licensed veterinarian,” among other alternatives. Euthanasia methods — primarily chemical injection and in some emergency situations, gunshots — are considered by the NHPC and others to be more humane than slaughter, which generally involves stunning with a captive bolt to make the animal unconscious before it is killed and bled. Euthanasia averages from \$50 to \$150 per horse, a “tiny fraction of the cost of keeping a horse as a companion or work animal,” NHPC has stated in response to arguments about the high expense of dealing with a horse diverted from slaughter.<sup>11</sup>

Opponents of a slaughter ban contend that disposing of many additional horses each year could create environmental problems, such as soil and groundwater contamination. Ban supporters counter that hundreds of thousands of U.S. horses die naturally or are euthanized each year, and are now safely disposed of. Many are not buried but sent to rendering plants, where their remains are used in industrial products and animal feeds. Renderers already handle millions of cattle and hogs that die before slaughter; another 90,000 horses easily could be absorbed into the existing system, ban supporters maintain.<sup>12</sup>

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<sup>9</sup> HSUS, *Animal Sheltering*, May-June 2000 issue.

<sup>10</sup> “The Unintended Consequences of a Ban on the Humane Slaughter (Processing) of Horses in the United States,” for the Animal Welfare Council, May 15, 2006. The study set the total U.S. horse population at 9.2 million. See [<http://www.animalwelfarecouncil.org>].

<sup>11</sup> NHPC website, accessed in May 2004 at [<http://www.horse-protection.org/info.php?id=30>].

<sup>12</sup> One expert estimated that almost 200,000 deceased horses must be disposed of annually; about a third are processed for human food. Source: Messer, Nat T. IV, DVM. “The Plight of the Unwanted Horse: Scope of the Problem,” at an April 19, 2005, Washington, D.C. workshop.