



The Animal Welfare Act: Background and Selected Animal Welfare Legislation

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Summary

In 1966, Congress passed the Laboratory Animal Welfare Act (P.L. 89-54) to prevent pets from being stolen for sale to research laboratories, and to regulate the humane care and handling of dogs, cats, and other laboratory animals. The law was amended in 1970 (P.L. 91-579), changing the name to the Animal Welfare Act (AWA). The AWA is administered by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service. Congress periodically has amended the act to strengthen enforcement, expand coverage to more animals and activities, or curtail practices viewed as cruel, among other things. A 1976 amendment added Section 26 to the AWA, making illegal several activities that contributed to animal fighting. Farm animals are not covered by the AWA.

In the 113th Congress, the Puppy Uniform Protection and Safety Act (H.R. 847/S. 395) was reintroduced and referred to the House Agriculture and Senate Agriculture, Nutrition, and Forestry Committees. The bill would require an AWA license from USDA for dog breeders who raise more than 50 dogs in a 12-month period and sell directly to the public. Also reintroduced is the Animal Fighting Spectator Prohibition Act (H.R. 366). This bill would impose criminal penalties for attendance at animal fighting exhibitions. This prohibition on attendance was also added to the 2012 Senate farm bill (§12213, S. 3240). Amendments to the Horse Protection Act (H.R. 1518) would modify the existing inspection system to detect soring and increase penalties for violations.

The Animal Fighting Spectator Prohibition Act of 2013 was also introduced in both the House (H.R. 366) and Senate (S. 666) in the 113th Congress. The bill would prohibit attendance at animal fighting events. Provisions in both the House (H.R. 1947) and Senate (S. 954) farm bills would also prohibit attendance at animal fighting events.

In the 112th Congress, two previously introduced bills were reintroduced, and several new bills were introduced. The Puppy Uniform Protection and Safety Act (H.R. 385) was reintroduced. The Pet Safety and Protection Act (H.R. 2256/S. 707) was also reintroduced and referred to the same subcommittee. The Animal Fighting Spectator Prohibition Act (S. 1947) was introduced. The Traveling Exotic Animal Protection Act (H.R. 3359) would have amended the AWA to prohibit the exhibition of an exotic or wild animal in any animal act if, during the previous 15 days, such animal was traveling in a mobile housing facility. H.Res. 736 expressed disapproval of using gas chambers to euthanize shelter animals. The Great Ape Protection and Cost Savings Act of 2011 (H.R. 1513/S. 810) was also reintroduced in the 112th Congress. The bill would have prohibited conducting invasive research on great apes (e.g., chimpanzee, bonobo, gorilla, orangutan, gibbon) and provided a retirement sanctuary for the nearly 1,000 great apes still used for research in the United States. No further action was taken on any of these bills.

In the 110th Congress, the Animal Fighting Prohibition Enforcement Act of 2007 (H.R. 137; P.L. 110-22) was enacted. The bill amended Section 26 of the AWA to strengthen provisions against animal fighting. The AWA was amended again in 2008 when provisions were included in the 2008 farm bill (P.L. 110-246). These provisions ban the importation of puppies under six months of age for resale, tighten prohibitions on dog and other animal fighting activity, and increase penalties for violation of the act.

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The Animal Welfare Act (AWA; 7 U.S.C. 2131 *et seq.*) is intended to ensure the humane treatment of animals that are intended for research, bred for commercial sale, exhibited to the public, or commercially transported. Under the AWA, businesses and others with animals covered by the law must be licensed or registered, and they must adhere to minimum standards of care. Farm animals are among those not covered by the act, which nonetheless provides a broad set of statutory protections for animals.¹

The law was first passed in 1966 following several years of lobbying by animal welfare organizations and growing public outcry over allegations that large numbers of pets were being “dognapped” for sale to medical research laboratories. Congress amended the original law in 1970, 1976, 1985, 1990, and 2002. These amendments generally were intended to expand the scope of the AWA or to clarify various provisions. The U.S. Department of Agriculture’s (USDA’s) Animal and Plant Health Inspection Service (APHIS) administers the AWA. The House and Senate Agriculture Committees have exercised primary legislative jurisdiction over the act and its amendments.

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¹ Legislation introduced, but not passed, in the 111th Congress, the Prevention of Farm Animal Cruelty (H.R. 4733) would have restricted federal purchases of food products derived from animals to those raised free from cruelty and abuse. Numerous other federal laws seek to protect other classes of animals, often those from the wild. Examples include the Marine Mammal Protection Act, the Lacey Act as amended, and the Wild Free-Roaming Horses and Burros Act. These and the others are described, with legal citations, in CRS Report 94-731, *Brief Summaries of Federal Animal Protection Statutes*, by Vivian S. Chu.

Key Provisions of the Animal Welfare Act²

Animals Covered

The act applies to any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit, or other warm-blooded animal determined by the Secretary of Agriculture to be for research or exhibition, or used as a pet. The AWA explicitly excludes birds, rats, and mice bred for research; horses not used for research; and other farm animals used in the production of food and fiber.³ Animals sold in retail facilities are not covered, unless they are wild or exotic animals. Cold-blooded animals like fish and reptiles also are excluded from coverage.

Businesses and Activities Covered

Generally, animal dealers and exhibitors must obtain a license, for which an annual fee is charged. APHIS does not issue a license until it inspects the facility and finds it to be in full compliance with its regulations. If a facility loses its license, it cannot continue its regulated activity. Those who conduct research, and general carriers that transport regulated animals, do not need a license but must still register with APHIS and undergo periodic inspections. Specific details follow.

Dealers, including pet and laboratory animal breeders and brokers, auction operators, and anyone who sells exotic or wild animals, or dead animals or their parts, must have an APHIS license for that activity. So-called Class A licensees are breeders who deal only in animals they breed and raise; all others are called Class B licensees. Exempt from the law and regulations are retail pet stores, those who sell pets directly to pet owners, hobby breeders, animal shelters, and boarding kennels.

Exhibitors must be licensed by APHIS as such. These so-called Class C licensees include zoos, marine mammal shows, circuses, carnivals, and promotional and educational exhibits. The law and regulations exempt agricultural shows and fairs, horse shows, rodeos, pet shows, game preserves, hunting events, and private collectors who do not exhibit, among others.

Animal transporters must be registered, including general carriers (e.g., airlines, railroads, and truckers). Businesses that contract to transport animals for compensation are considered dealers and must have licenses.

Research facilities must be registered. They include state and local government-run research institutions, drug firms, universities, diagnostic laboratories, and facilities that study marine mammals. Federal facilities, elementary and secondary schools, and agricultural research institutions are among those exempt from registration.

Animal fighting generally is prohibited by the AWA. The ban includes dogfights and bear and raccoon baiting; sponsors and exhibitors are subject to penalties. The AWA also has banned bird fights, except in the states where they are not prohibited by state law (namely Louisiana and New

² Unless noted, sources on the AWA are various materials provided by APHIS.

³ For example, rabbits raised for food are exempt from AWA coverage; those for pets are not.

Mexico), and the sponsor or exhibitor was unaware that the transaction had occurred in interstate commerce.

Standards

All licensed and registered entities must comply with USDA-APHIS regulations, including recordkeeping and published standards of care. These standards deal with humane handling, shelter, space requirements, feeding, watering, sanitation, ventilation, veterinary care, and transport. (AWA regulations are at 9 C.F.R. §1.1 *et seq.*)

Oversight and Enforcement

APHIS's Animal Care (AC) program oversees the AWA, under which approximately 12,000 facilities were licensed or registered in FY2011. For 2012, AC had an annual budget of nearly \$28 million.⁴

AC officials make unannounced inspections of registered and licensed facilities to ensure compliance with all rules. Under the AWA, research facilities are to be inspected at least annually. Inspection frequency for other AWA-regulated facilities is based on risk; for example, moderate-risk facilities are to be visited about once yearly. APHIS inspectors also conduct searches to identify unlicensed or unregistered facilities. Failure to correct deficiencies can result in confiscation of animals, fines, cease-and-desist orders, or license suspensions.

In 2010, USDA's Office of the Inspector General (OIG) released an audit of AC's investigations of large-scale dog dealers (i.e., breeders and brokers) that failed to provide humane treatment for the animals under their care.⁵ In a previous audit of laboratory animals, the OIG found that AC did not aggressively pursue enforcement actions against violators of AWA. The May 2010 audit determined that (1) AC's enforcement process was ineffective against dealers with repeated violations; (2) APHIS misused its guidelines to lower penalties for AWA violators; and (3) some large breeders circumvented AWA by selling animals over the Internet.⁶ APHIS concurred with the OIG's findings and has implemented 13 of the 14 recommendations as of FY2013.

⁴ A portion of this amount, \$696,000, was used to administer the Horse Protection Act (15 U.S.C. §§1821-1831), which makes it a crime to exhibit or transport any "sore" horse, i.e., one whose feet have been injured to alter its gait. In an August 2010 petition, the Humane Society of the United States, the American Society for the Prevention of Cruelty to Animals, the American Horse Protection Association, and Friends of Sound Horses, Inc., have requested that APHIS tighten its regulations for horses by permanently barring from competition any horse scarred from soring and requiring horse organizations to impose penalties for violations. APHIS is considering comments on the proposed changes until June 13, 2011. See *Federal Register*, vol. 76, no. 71: 20569, April 13, 2011.

⁵ Animal and Plant Health Inspection Service Animal Care Program Inspections of Problematic Dealers, May, 2010. Report accessible at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf>.

⁶ Large breeders that sell AWA-covered animals over the Internet are exempt from AC's inspection and licensing requirements due to a loophole in AWA. The IG report recommended that APHIS prevent large breeders from circumventing AWA requirements by seeking legislative change to exclude these breeders from the definition of "retail pet store," and require that all applicable breeders that sell through the Internet be regulated under AWA. The Puppy Uniform Protection and Safety Act (H.R. 835), reintroduced in the 112th Congress, would close the existing AWA loophole.

Legislative History

Original Law

Although long known as the Animal Welfare Act, the original law was passed simply as P.L. 89-544, and referred to as the “Laboratory Animal Welfare Act” of August 24, 1966. The law requires dealers in dogs and cats for research purposes to obtain a USDA license and to abide by USDA-set humane treatment requirements. It also requires a research facility to register with USDA only if it uses dogs or cats and either (1) purchases them in interstate commerce or (2) receives federal research money. The law authorizes the Secretary of Agriculture to set humane handling standards for guinea pigs, nonhuman primates, rabbits, and hamsters as well as dogs and cats—but only dealers and research facilities with dogs and cats are subject to these standards. Farmers and pet owners are among those exempted from the law. Other provisions spell out recordkeeping requirements, enforcement authorities and penalties for noncompliance.

Animal Welfare Act of 1970

P.L. 91-579 renamed the “Laboratory Animal Welfare Act” the Animal Welfare Act and expanded animal coverage to include all warm-blooded animals determined by the Secretary to be used for experimentation or exhibition, except horses not used in research and farm animals used in food and fiber research. The 1970 law also incorporated exhibitors; defined research facilities; and exempted from coverage retail pet stores, agricultural fairs, rodeos, dog and cat shows.

Animal Welfare Act Amendments of 1976

The 1976 amendments (P.L. 94-279) added Section 26 to the AWA. Section 26 is directed at animal fighting and made illegal (1) sponsoring or exhibiting an animal in an animal fighting venture; (2) interstate shipment of animals to be used in animal fighting ventures; and (3) use of U.S. mails or communication systems to advertise or promote animal fighting ventures. Section 26 contained its own definitions, authority for investigations, and penalty provisions. The 1976 amendments also clarified and expanded previous regulations covering animal transport and commerce. Hunting animals are generally exempt. The amendments passed over the objections of USDA and the U.S. Attorney General, who believed that animal fighting, was a state and local law enforcement issue.

Improved Standards for Laboratory Animals Act

These amendments were passed as Title XVII, Subtitle F, of the Food Security Act of 1985 (P.L. 99-198, the omnibus 1985 farm bill). The law directs the Secretary to set new minimum standards of care for handling, housing, feeding, water, sanitation, ventilation, and so forth. One new provision that was highly contentious at the time singles out two species by requiring standards for the exercise of dogs and the psychological well-being of primates. The law provides that research facilities must have procedures that minimize pain and stress to the animals, and describes practices considered to be painful. Each research facility must establish an Institutional Animal Care and Use Committee to review research proposals that involve animal experimentation and to provide oversight of laboratories. The amendments also increase civil and

criminal penalties for AWA violations, and establish an animal welfare information center at USDA's National Agricultural Library.

Protection of Pets

Section 2503 of the Food Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624, the 1990 farm bill) extended pet protections. It required public and private animal shelters and research facilities that acquire dogs and cats to hold them for at least five days to allow time for either adoption or recovery by the original owner before they could be sold to a dealer. Dealers are prohibited from selling dogs and cats they did not breed unless they provide certified records on, among other things, the animals' origin. Other new recordkeeping requirements also were specified.

Animal Welfare Amendments to the 2002 Farm Bill

Title X, Subtitle D, of the Farm Security and Rural Investment Act of 2002 (P.L. 107-171, the omnibus 2002 farm bill) makes it a misdemeanor to ship a bird in interstate commerce for fighting purposes, or to sponsor or exhibit any bird in a fight with knowledge that any of the birds were so shipped (even fights within a state where the practice is permitted). The law also increases the maximum financial penalty for a violation (a misdemeanor) of the anti-fighting provisions of the AWA, to \$15,000 from \$5,000. The 2002 law also explicitly excludes from AWA coverage birds, rats, and mice bred for research purposes. The Secretary of Agriculture had previously published regulations excluding these animals from coverage, which the Animal Legal Defense Fund challenged in federal court. When USDA agreed to settle the case by essentially reversing its regulations, Congress (in P.L. 106-387, the FY2001 agriculture appropriation bill) blocked the action by prohibiting funds for such a rule change. The 2002 law made the exclusion a permanent part of the AWA.⁷

Animal Fighting Prohibition Enforcement Act of 2007

P.L. 110-22, signed into law May 3, 2007, made a violation of the animal fighting provisions of the AWA a felony punishable by up to three years in prison, under Title 18 of the *U.S. Code* (Crimes and Criminal Procedure). The law, based on companion bills (H.R. 137/S. 261), also made it a felony to trade, in interstate and foreign commerce, knives, gaffs, or other sharp objects designed for use in animal fighting, or to use the Postal Service or other "interstate instrumentality to trade in such devices, or to promote an animal fighting venture."

Proponents of various animal fighting bills had observed that in 2001, the House and Senate approved strong animal fighting sanctions in their respective farm bills, but that conferees on the final 2002 farm bill (P.L. 107-171) removed the felony language. Proponents argued that stronger deterrents were needed because animal fighting is a brutal, inhumane practice closely associated with criminal activity, endangers children where aggressive dogs are being reared, and may contribute to the spread of avian influenza in the case of live birds. Opponents countered that such measures would violate provisions in the U.S. Constitution that protect states' rights, including the Commerce Clause, and that recognize private citizens' right to travel for economic

⁷ CRS Report 94-731, *Brief Summaries of Federal Animal Protection Statutes*, by Vivian S. Chu.

reasons. Other opponents argued that completely banning and/or stiffening penalties for all animal fighting activities would drive them further underground, undermining efforts to protect animals and the public from any disease problems created by such activities.

While animal fighting is prohibited, attendance at animal fighting exhibitions is not. The Animal Fighting Spectator Prohibition Act (H.R. 366, S. 666) was reintroduced in the 113th Congress. The bill would impose criminal penalties for attendance at animal fighting exhibitions, or for causing a minor to attend an animal fight. This prohibition on attendance was also added to both the 2013 House (H.R. 1947) and Senate (S. 954) farm bills.

2008 Farm Bill

Animal Fighting

The 2008 farm bill (P.L. 110-246) contained a number of amendments to the AWA. One section (§14207) strengthened further the definitions of, and penalties for, activities related to animal fighting. For example, the amendments increased maximum imprisonment to five years from three years. The animal fighting provision was based on language in S. 1880 and H.R. 3219 (110th Congress)—bills introduced shortly after the July 17, 2007, indictment of National Football League quarterback Michael Vick on charges related to dog fighting—to more explicitly ban various dog fighting activities, and to define the term.⁸

Puppy Imports; Penalties for AWA Violations

The 2008 farm bill also required regulations prohibiting importation for resale of dogs unless they were at least six months of age, in good health, and had all necessary vaccinations. There were exemptions for research, veterinary treatment, or imports into Hawaii from certain countries. Another section (§14214) increased the maximum penalty for a general violation of the act from the current \$2,500 to \$10,000 for each violation. The regulations require that live dogs imported into the United States for resale, research, or veterinary treatment be accompanied by an import permit issued by APHIS. APHIS published its proposed rule in September 2011, and the final rule was published August 2013.

In May 2012, APHIS announced a proposed rule that would change the definition of “retail pet store” to bring more pet animals sold at retail under the protection of the AWA. Currently, retail pet stores are not required to obtain licenses under the AWA or comply with AWA regulations and standards. APHIS proposes to narrow the definition of retail pet store so that it means a place of business or residence that a buyer physically enters to observe animals prior to their sale. The regulation would exempt anyone selling animals (except wild or exotic animals) that derives no more than \$500 gross income from the sale of such animals. The rule would also increase from three to four the number of breeding female dogs or cats, and/or small exotic or wild mammals, that a person may maintain on premises and be exempt from AWA licensing and inspection.

⁸ Another bill, H.R. 3327, included the provisions of H.R. 3219 and S. 1880, as well as language to enable animal humane agencies to initiate civil actions where violations are alleged.

Dogs and Cats in Research

Both the House- and Senate-passed versions of the 2008 omnibus farm bill had contained the language of two other pending bills (the Pet Safety and Protection Act of 2007; H.R. 1280/S. 714) to restrict where research facilities could obtain their dogs and cats. This language was deleted by conferees; the final version instead directed USDA to review “any independent reviews by a nationally recognized panel of experts” on Class B use by researchers. Conferees said in accompanying report language that they were aware of concerns regarding use of random source animals from Class B dealers. However, they observed that USDA’s FY2008 appropriation (part of the Consolidated Appropriations Act, 2008, P.L. 110-161) had requested such an independent review.

Pet Safety and Protection Act

Critics have long asserted that the limited number of Class B dealers who still collect dogs and cats from random sources, including “free to a good home” classified ads, auctions, and flea markets, are more concerned about profit than animal welfare. Others have contended that passage would leave no viable sources of random source dogs and cats, which are needed by medical and veterinary researchers because of their genetic and age diversity; and that the majority of Class B dealers are in compliance with the AWA.

A National Research Council (NRC) report on the issue published in May 2009 concluded that random source dogs and cats may be desirable and necessary for certain types of biomedical research but that “it is not necessary to acquire them through Class B dealers, as there are adequate numbers of such animals from shelters and other sources.”⁹ The NRC noted that of the more than 1,000 Class B dealers in the United States, at last count only 11 of them acquired and sold live dogs and cats for research and teaching. The report’s conclusions and recommendations applied only to these 11 dealers that may supply such animals for research funded by the National Institutes of Health.

The report discussed in more detail the advantages and disadvantages of random source dogs and cats, which constitute less than 1% of all laboratory animals; evaluates the Class B dealer system, under which (it found) animal standards of care appear to vary greatly; and offers alternative options for obtaining random source animals. These alternatives include partnering with pet owners, veterinarians, breeders, and others; obtaining animals from Class A dealers and through donations from small breeders and hobby clubs; and acquiring animals directly from pounds and shelters, among others.¹⁰

The Pet Safety and Protection Act, reintroduced in the 112th Congress as Act (H.R. 2256/S. 707) would have amended the AWA to limit the sources of random source dogs and cats to a licensed dealer (under Section 3 of the AWA) who has bred and raised the animal; a publicly owned or

⁹ NAS, *Scientific and Humane Issues in the Use of Random Source Dogs and Cats* (Report in Brief), May 2009. The entire report is at http://www.nap.edu/catalog.php?record_id=12641.

¹⁰ In light of violations noted by APHIS inspections, GAO also noted in a September 2010 report that APHIS’s oversight of dealers who provide “random source” dogs and cats for research was in needed tighter managerial controls. See *USDA’s Oversight of Dealers of Random Source Dogs and Cats Would Benefit from Additional Management Information and Analysis*. GAO-10-945, September 2010.

operated pound or shelter that meets certain qualifications; someone donating the dog or cat that bred and raised the animal or owned it for not less than one year; and research facilities licensed by the Secretary of Agriculture. The bill also would have subjected violators to a fine of \$1,000 per violation, over and above any other applicable penalties. The bill was referred to committee and no further action was taken.

Other Selected Bills

Puppy Uniform Protection and Safety Act

In May 2010, USDA's Office of Inspector General released a scathing report that excoriated APHIS for its lax enforcement of the AWA with respect to large dog-breeding operations ("puppy mills").¹¹ The report documented that over half of the kennels cited for violations between 2006 and 2008 continued to break the law. Among other shortcomings, APHIS inspectors failed to confiscate dogs at kennels that were violating the AWA, reduced punishments arbitrarily, improperly documented inspections and thereby caused nearly half of all administrative hearings involving problem breeders to be compromised because of lack of evidence. The report noted the loophole in the AWA that exempts from APHIS's inspection and licensing requirements breeders who sell dogs over the Internet or through newspaper advertisements.¹²

The Puppy Uniform Protection and Safety Act (the PUPS Act, H.R. 847/S. 395) was reintroduced in the 113th Congress and referred to the House Subcommittee on Livestock, Dairy, and Poultry. The bill would amend the AWA to bring large dog-breeding operations that sell directly to the public under AWA inspection and licensing.

The proposed legislation would require those who breed dogs to obtain an AWA license from USDA if they raise more than 50 dogs in a 12-month period and sold directly to the public. The bill also would set some minimum daily exercise requirements for dogs held by the dealers. Supporters of the bills contend that the Internet and other relatively recent marketing techniques have enabled importers and large commercial breeders, whom they call "puppy mills," to sell their animals directly to the public while evading the AWA licensing and humane handling requirements, even though they are selling large numbers of animals. (Wholesale breeders are already covered by the AWA.) Opponents, including the American Kennel Club, counter that the measures would strain USDA resources and newly subject thousands of relatively small in-home and hobby breeders, as well as rescue organizations, to burdensome licensing and regulatory requirements that were designed for large commercial businesses.

The Puppy Uniform Protection and Safety Act is similar in intent to a measure introduced in the 109th Congress, the Pet Animal Welfare Statute. The latter bill would have required commercial dog and cat breeders to obtain AWA licenses if they sold more than six litters or more than 25 dogs or cats directly to the public each year, among other things.

¹¹ USDA, Office of Inspector General, *APHIS Animal Care Program, Inspections of Problematic Dealers*. Audit Report 33002-4-SF, May 10, 2010. Report can be accessed at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf>.

¹² APHIS has approximately 100 inspectors responsible for over 4,600 licensed dog-breeders.

In similar action, USDA/APHIS also proposes to narrow its interpretation of “retail pet stores” that are exempt from regulation under the AWA. USDA/APHIS has interpreted the AWA to include as “retail pet stores” and exclude from regulation those breeders that sell animals directly to the public. These breeders sell the animals over the Internet or through newspaper ads. In a lawsuit to challenge the USDA’s interpretation, the D.C. Circuit sided with the USDA.¹³

Under the proposed change in the regulations, the AWA would now apply to breeders that do not maintain a physical place, a residence or other place, where buyers can come in to observe the animals for sale prior to purchase. This change would apply to breeders that may sell animals sight unseen through Internet, newspaper, or other ads so that the purchaser has no opportunity to observe the health of the animal prior to the sale.

It would not be difficult for most breeders to circumvent this by setting up a place where buyers can observe the animals prior to sale. In effect, the AWA regulations would still not apply to most breeders that sell animals directly to the public. Currently, the regulations only apply to breeders that sell animals through brokers or dealers.

Sense of Congress to Ban Shelter Gas Chambers

H.Res. 736 was introduced in the 112th Congress by Representative James Moran in July 2012. The resolution expresses opposition to and disapproval of the use of gases to euthanize shelter animals (e.g. carbon monoxide, carbon dioxide, nitrogen, nitrous oxide, argon). The resolution also expresses support for state laws that require euthanasia of animals by injection using sodium pentobarbital. In comparison to using gas chambers, euthanasia of shelter animals by injection is considered more reliable and more humane by the American Humane Association, the American Veterinary Medical Association, the National Animal Control Association, the Association of Shelter Veterinarians, and the American Society for the Prevention of Cruelty to Animals, and the Humane Society of the United States. In August, H.Res. 736 was referred to the House Committee on Agriculture’s Subcommittee on Livestock, Dairy, and Poultry. No further action was taken on the measure

Legislation Affecting the Use of Great Apes in Biomedical Research

The United States is the only developed country that continues large-scale confinement of chimpanzees in federal laboratories. The European Union, Japan, and New Zealand have banned or strictly limited their use. Approximately nine federal laboratories own an estimated total of 500 great apes, mostly chimpanzees, used as subjects in biomedical research. Many of the chimpanzees, however, are no longer actually used in medical research, but simply warehoused at government laboratories.¹⁴ As laboratory techniques have advanced (e.g., computer modeling,

¹³ See *Doris Day Animal League v. Veneman*, 315 F.3d 297 (D.C. Cir. 2003).

¹⁴ The federal government began breeding chimpanzees in the 1960s for the space program. In the mid-1980s, the National Institutes of Health (NIH) stepped up its chimpanzee breeding program under the assumption that chimpanzees—humans’ closest primate cousin—would be ideal laboratory models for AIDS. It turned out that apes were not as useful a model as originally believed. NIH later imposed a moratorium on its chimpanzee breeding program and began looking for solutions to deal with its “surplus.” Although NIH considered euthanizing the chimpanzees, the agency abandoned the idea in favor of sending them to sanctuaries.

DNA analysis, *in vitro* study) and animal research ethics have evolved, questions have arisen about the continued use of great apes as research subjects, and about the ethics and cost of housing chimpanzees.

In December 2011, the Institute of Medicine (IOM) of the National Academies published a Consensus Report on the use of chimpanzees in biomedical research.¹⁵ While the report did not endorse a ban on chimpanzee research, the report established a set of uniform criteria for determining when, if ever, current and future research use of chimpanzees is necessary for public health issues. In January 2013, the National Institutes of Health (NIH) issued a report concluding that the 451 chimpanzees owned or supported by the NIH research facilities should be permanently retired from research and moved to sanctuaries.¹⁶ In the most recent action to curtail research using chimpanzees, the Fish and Wildlife Service announced in June 2013 that it is issuing a new rule under the Endangered Species Act that all chimpanzees are endangered. In its announcement, Fish and Wildlife stated that a 1990 decision to declare wild chimpanzees as “endangered” and captive chimpanzees as “threatened” was flawed. In classifying all chimpanzees as endangered, the rule would prohibit buyers in the exotic animal business from taking chimpanzees across state lines, and international trade in chimpanzees would be banned.

In 2000, the Chimpanzee Health Improvement, Maintenance, and Protection Act (P.L. 106-551, the CHIMP Act) was enacted. The act created a federally funded national sanctuary system for chimpanzees retired from research and prohibited killing them as a matter of convenience to laboratories. Approximately 152 chimpanzees have been retired to the federally funded national chimpanzee sanctuary system. Approximately 500 more from U.S. research, including military, air and space research, were placed in private sanctuaries in North America. Under the CHIMP Act, however, the laboratories had complete discretion as to when a chimpanzee was considered for retirement, and under certain circumstances a retired chimpanzee could be returned to research.¹⁷

The Great Ape Protection Act was introduced in the 111th Congress. After referral, no further action was taken on the bill. A new great ape protection bill—the Great Ape Protection and Cost Savings Act of 2011, (H.R. 1513/S. 810)—was introduced in the 112th Congress. As was the case with the Great Ape Protection Act, the new bill would have prohibited invasive research on great apes (e.g., chimpanzee, bonobo, gorilla, orangutan, gibbon), prohibit the use of federal funds for great ape research in and outside the United States, and permanently retire all great apes owned by the federal government. The new bill would also have established a great ape sanctuary system fund in the U.S. Treasury to provide funding for the animals’ retirement. Currently, Chimp Haven in Louisiana is the great ape sanctuary. The previous Great Ape Protection bill had similar provisions, but did not create the federal funding system to support the retirement of great apes owned by the federal government. The new bill was referred to the House Committee on Energy and Commerce and the Senate Committee on Environment and Public Works. In the Senate, the bill was ordered to be reported out of the Committee on Environment and Public Works with an amendment favorably. No further action was taken in the 112th Congress.

¹⁵ Institute of Medicine, Board on Health Sciences Policy, *Chimpanzees in Biomedical and Behavioral Research: Assessing the Necessity*, December 15, 2011, <http://iom.edu/Reports/2011/Chimpanzees-in-Biomedical-and-Behavioral-Research-Assessing-the-Necessity.aspx>.

¹⁶ National Institutes of Health, Council of Councils Working Group on the Use of Chimpanzees in NIH-Supported Research Report, January 2013, http://dpcpsi.nih.gov/council/pdf/FNL_Report_WG_Chimpanzees.pdf.

¹⁷ In 2007, the Chimp Haven Is Home Act amendment was enacted. The amendment prohibited returning chimpanzees to research once they were retired into federal sanctuary.

The Great Ape Conservation Reauthorization Amendments Act of 2013 was reintroduced in the 113th Congress as H.R. 1328. The bill would amend the Great Ape Conservation Act of 2000 (P.L. 106-411) and authorize appropriations through FY2018. The bill was referred to the Subcommittees on Fisheries, Wildlife, Oceans, and Insular Affairs. The Great Ape Conservation Act of 2000 supports conservation of great apes by supporting and providing financial resources for the habitat conservation programs in countries within the range of great apes. The act also supports projects of persons with demonstrated expertise in the conservation of great apes.

Horse Protection Act Amendments

The Horse Protection Act (HPA), enacted in 1970 (P.L. 91-540), prohibits the showing, sale, auction, exhibition, or transport of sored horses. Soring is a practice primarily used in the training of Tennessee Walking Horses, racking horses, and related breeds to accentuate the horse's gait. Horse soring is accomplished by several techniques, including the application of chemicals to irritate or blister a horse's forelegs, or the use of various mechanical devices.

The Animal and Plant Health Inspection Service (APHIS) of USDA is responsible for administering the HPA and for conducting inspections at horse shows, exhibitions, and auctions. In 1976, the Horse Protection Act Amendments were enacted (P.L. 94-360) in response to APHIS's weak enforcement of the HPA. The act established what became the Designated Qualified Person (DQP) Program, an organizational structure that organizes inspections at horse events. The DQP program was implemented in 1979 (9 C.F.R. 11.7). A DQP is a person who, under the provisions of Section 4 of the HPA, is appointed and delegated authority by the management of a horse show or sale to detect horses that are sored. DQPs are USDA-accredited veterinarians with equine experience, or they are farriers, horse trainers, or other who have been formally trained and licensed by USDA-certified Horse Industry Organization (HIO).¹⁸

In 2010, USDA's Office of the Inspector General issued a report on enforcement of the HPA.¹⁹ The report revealed serious shortcomings in the inspection process, with lax enforcement, repeat offenders receiving little or no sanctions, and poor documentation of inspections and sanctions. In particular, the report found that the industry's self-regulation system had not been adequate to ensure that these horses were not being abused. In the wake of this report, the Animal and Plant Health Inspection Service agreed to the analysis and put into place better efforts to enforce the regulations of the HPA.²⁰

The Prevent All Soring Tactics Act of 2013 (H.R. 1518) would amend the HPA to ban "action devices" on horses, modify the existing DQP inspection system, and impose new penalties on HPA violations.²¹ The "action devices," like other soring techniques, produce a more pronounced

¹⁸ An HIO is licensed by APHIS to establish a DQP training program. An HIO wanting USDA certification must formally apply and present its proposed training program to USDA for approval. In 2009, there were 12 HIOs with APHIS-certified DQP programs who participate with APHIS in annual DQP training seminars, clinics, and educational forums.

¹⁹ USDA. Animal and Plant Health Inspection Service Administration of the Horse Protection Program and the Slaughter Horse Transport Program. Office of the Inspector General. Audit Report 33601-2-KC. September 2010. Report may be accessed at <http://www.usda.gov/oig/webdocs/33601-02-KC.pdf>.

²⁰ See, for example http://www.aphis.usda.gov/newsroom/2012/06/hpa_finalrule.shtml.

²¹ An "action device" is a boot, collar, chain, roller, or other device that encircles or is placed upon the lower extremity of the leg of a horse. The devices rotate around the leg or slide up and down the horse's leg causing painful friction.

gait in a Tennessee walking horse, a racking horse, or a spotted saddle horse. The amendments apply only these breeds and apply to the sale, showing, or transportation of such horses.

H.R. 1518 would also end the horse industry's ability to self-police with industry-selected inspectors by creating a new licensing process requiring APHIS to appoint inspectors for HPA-regulated activities and venues. Hiring inspectors would be the responsibility of the show, sale, or auction. The definition of "event management" would be expanded to include "sponsoring organizations" and "event managers." This expansion would make them potentially liable for HPA violations.

The bill would also increase the maximum fine for HPA violations from \$3,000 to \$5,000 as well as raise maximum prison sentence to three years. Trainers with three violations could get a lifetime ban from participating in shows, exhibitions, or auctions. These changes would be applicable to all horse breeds subject to HPA regulation.

Horse breeder associations have generally opposed the bill or major portions of the proposed amendments (e.g., Tennessee Walking Horse Breeders and Exhibitors Association, Tennessee Walking Show Horse Organization, Racking Horse Association of America, National Spotted Horse Breeders and Exhibitors Association). Animal welfare organizations have been active supporters of the bill (e.g., American Horse Protection Association, Humane Society of the United States, American Horse Council, and Association for the Prevention of Cruelty to Animals, Animal Welfare Institute, American Association of Equine Practitioners).

2013 Farm Bill: Animal Fighting

The AEA prohibits and provides penalties for sponsoring or exhibiting an animal in a fighting venture. Both the House (H.R. 1947) and Senate (S. 954) farm bills would amend the AWA to prohibit knowingly attending an animal fighting event. The Senate bill authorizes penalties for attendance. The House bill does not include penalty provisions.

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