

111TH CONGRESS
1ST SESSION

S. 1579

To amend the Wild Free-Roaming Horses and Burros Act to improve the management and long-term health of wild free-roaming horses and burros, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2009

Mr. REID (for Mr. BYRD) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Wild Free-Roaming Horses and Burros Act to improve the management and long-term health of wild free-roaming horses and burros, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Restore Our American
5 Mustangs Act”.

6 **SEC. 2. REFERENCE.**

7 Except as otherwise expressly provided, whenever in
8 this Act an amendment or repeal is expressed in terms

1 of an amendment to, or repeal of, a section or other provi-
2 sion, the reference shall be considered to be made to a
3 section or other provision of the Act of December 15, 1971
4 (commonly known as the “Wild Free-Roaming Horses and
5 Burros Act”; 16 U.S.C. 1331 et seq.).

6 **SEC. 3. POLICY.**

7 The first section is amended by striking “in the area
8 where presently found, as”.

9 **SEC. 4. DEFINITIONS.**

10 Section 2 (16 U.S.C. 1332) is amended—

11 (1) in paragraph (b), by inserting “born or
12 present” after “unclaimed horses and burros”;

13 (2) in paragraph (c), by striking “which does
14 not exceed their known territorial limits,”;

15 (3) in paragraph (d)—

16 (A) by inserting “and any associated foals”
17 after “his mares”; and

18 (B) by striking “and” after the semicolon;

19 (4) in paragraph (e), by striking the period and
20 inserting a semicolon;

21 (5) in paragraph (f)—

22 (A) by striking “(1) which” and all that
23 follows through “(2)”;

24 (B) by inserting “, in accordance with sec-
25 tion 3(d),” after “from an area”; and

1 (C) by striking the period at the end and
2 inserting a semicolon; and

3 (6) by adding at the end the following:

4 “(g) ‘thriving natural ecological balance’ means
5 a condition that protects ecosystem health, the eco-
6 logical processes that sustain ecosystem function and
7 a diversity of life forms, including those species list-
8 ed under the Endangered Species Act of 1973, and
9 further ensures that wild horses and burros, live-
10 stock and wildlife species are given fair consideration
11 in the allocation of resources on those lands where
12 said species are authorized or managed consistent
13 with the requirements of the Federal Land Policy
14 and Management Act of 1976 (Public Law 94–579)
15 and other applicable law; and

16 “(h) ‘fatally injured or terminally ill’ means an
17 animal exhibiting one or more of the following:

18 “(1) A hopeless prognosis for life.

19 “(2) A chronic or incurable disease, injury,
20 lameness, or serious physical defect (including
21 severe tooth loss or wear, club foot, and other
22 severe congenital abnormalities).

23 “(3) A condition requiring continuous
24 treatment for the relief of pain and suffering in
25 a domestic setting.

1 “(4) An acute or chronic illness, injury,
2 physical condition or lameness that would pre-
3 clude an acceptable quality of life for the fore-
4 seeable future.”.

5 **SEC. 5. INVENTORY AND DETERMINATIONS.**

6 (a) Section 3(a) (16 U.S.C. 1333(a)) is amended as
7 follows:

8 (1) By striking “is authorized and directed to”
9 and inserting “shall—
10 “(1)”.

11 (2) By striking “, and he may” and inserting
12 a semicolon.

13 (3) By inserting before “designate” the fol-
14 lowing:

15 “(2)”.

16 (4) In paragraph (2) (as so designated)—

17 (A) by striking “their” and inserting
18 “the”;

19 (B) by inserting “of wild free-roaming
20 horses and burros” after “preservation”;

21 (C) by striking “wherein” and inserting
22 “where”;

23 (D) by striking “deems” and inserting “,
24 considers”; and

1 (E) by striking “desirable. The Secretary
2 shall” and inserting “desirable;
3 “(3)”.

4 (5) In paragraph (3) (as so designated), by
5 striking the period after “public lands” and insert-
6 ing a semicolon.

7 (6) By striking “He shall” and inserting the
8 following:

9 “(4)”.

10 (7) In paragraph (4) (as so designated), by
11 striking “of this Act.” and inserting “of this Act;”.

12 (8) By striking “All” and inserting the fol-
13 lowing:

14 “(5) ensure that”.

15 (9) In paragraph (5) (as so designated)—

16 (A) by inserting “related to wild free-roam-
17 ing horses and burros are” after “activities”;

18 (B) by striking “shall be” both places it
19 appears;

20 (C) by inserting “relevant State” after “in
21 consultation with the”;

22 (D) by striking “of the State wherein such
23 lands are located”;

24 (E) by striking “which inhabit such
25 lands”; and

1 (F) by striking the period after “endan-
2 gered wildlife species” and inserting a semi-
3 colon.

4 (10) By striking “Any” and inserting the fol-
5 lowing:

6 “(6) ensure that any”.

7 (11) In paragraph (6) (as so designated)—

8 (A) by striking “on any such lands shall
9 take” and inserting “are made after taking”;
10 and

11 (B) by striking “which inhabit such
12 lands.” and inserting “; and”.

13 (12) At the end of such subsection, add the fol-
14 lowing:

15 “(7) ensure that, to the extent practicable, the
16 acreage available for wild and free-roaming horses
17 and burros shall never be less than the acreage
18 where wild and free-roaming horses and burros were
19 found in 1971.”.

20 (b) Subsection (b)(1) of section 3 is amended as fol-
21 lows:

22 (1) By striking “(b)(1) The Secretary shall”
23 and inserting the following:

1 “(b) In order to determine if a thriving natural eco-
2 logical balance exists with regards to wild free-roaming
3 horses and burros, the Secretary shall—

4 “(1)”.

5 (2) In paragraph (1) (as so designated)—

6 (A) by striking “a current” and inserting
7 “an”; and

8 (B) by striking the period after “public
9 lands” and inserting a semicolon and the fol-
10 lowing:

11 “(2) update the inventory every two years; and

12 “(3) make the inventory available to the public
13 on the Website of the Bureau of Land Manage-
14 ment.”.

15 (3) By striking “The purpose” and all that fol-
16 lows through “the Secretary” and inserting the fol-
17 lowing:

18 “(c) In order to better manage and protect wild free-
19 roaming horses and burros, and to achieve and maintain
20 a thriving natural ecological balance, the Secretary, not
21 later than one year after the date of the enactment of this
22 section, shall take the following actions:

23 “(1) Adopt and employ the best scientific, peer-
24 reviewed methods to accurately estimate wild free-
25 roaming horse and burro populations on public lands

1 for purposes of the inventory required in subsection
2 (b).

3 “(2) Develop a policy and standards, with pub-
4 lic involvement, for setting consistent, appropriate
5 management levels on public lands, based on sci-
6 entifically sound methodologies.

7 “(3) Provide a public process, including a pe-
8 riod for notice and comment, for finalizing appro-
9 priate management level standards.

10 “(4) Publish and distribute these standards to
11 each field office so that the methodology for esti-
12 mating population and determining appropriate
13 management levels is consistent across public lands.

14 “(5) Train Federal personnel on the use of
15 these standard techniques to estimate population
16 and determine appropriate management levels.”.

17 (4) By striking “shall consult with” and insert-
18 ing the following:

19 “(6) Develop and finalize the standards in con-
20 sultation with—”.

21 (5)(A) By inserting “(A)” before “the United
22 States Fish”.

23 (B) By inserting “(B)” before “wildlife agen-
24 cies”.

1 (C) By striking “wherein” and inserting
2 “where”.

3 (D) By striking “such individuals” and insert-
4 ing “(C) individuals”.

5 (E) By striking “such other individuals” and
6 inserting “(D) individuals”.

7 (F) By striking “he” and inserting “the Sec-
8 retary”.

9 (G) By inserting “to” after “determines”.

10 (6) In subparagraphs (A) through (C) of para-
11 graph (6) (as so designated), by striking each
12 comma and inserting a semicolon.

13 (7) In subparagraphs (A) through (D) of para-
14 graph (6) (as so designated), by moving the margins
15 of such subparagraphs 4 ems to the right.

16 (8) After paragraph (6) (as so designated), by
17 inserting the following:

18 “(7) Identify new, appropriate rangeland for
19 wild free-roaming horses and burros, including use
20 of land acquisitions, exchanges, conservation ease-
21 ments, voluntary grazing buyouts, and agreements
22 with private landowners to allow for the federally su-
23 pervised protection of wild horses and burros on pri-
24 vate lands, except that the Secretary shall assess the
25 effects of new range for wild free-roaming horses

1 and burros on rangeland health, riparian zones,
2 water quality, soil compaction, seed bed disturbance,
3 native wildlife, and endangered or threatened species
4 and transmit the results of the assessment to the
5 Committee on Natural Resources of the House of
6 Representatives and the Committee on Energy and
7 Natural Resources of the Senate.

8 “(8) Establish sanctuaries or exclusive use
9 areas, except that the Secretary shall assess the ef-
10 fects of sanctuaries or exclusive use areas for wild
11 free-roaming horses and burros on rangeland health,
12 riparian zones, water quality, soil compaction, seed
13 bed disturbance, native wildlife and endangered or
14 threatened species and transmit the results of the
15 assessment to the Committee on Natural Resources
16 of the House of Representatives and the Committee
17 on Energy and Natural Resources of the Senate.

18 “(9) In identifying or designating any new
19 rangeland, or establishing any sanctuary or exclusive
20 use area for wild free-roaming horses and burros,
21 the Secretary of the Interior and the Secretary of
22 Agriculture shall take into account and avoid any
23 potential conflicts with wind, solar, geothermal, oil,
24 natural gas, energy transmission, and mineral re-

1 sources potential of the lands affected by the identi-
2 fication, designation, or establishment.

3 “(10) Research, develop, and implement en-
4 hanced fertility control for mares, stallions, or both,
5 such as surgical or immunocontraception steriliza-
6 tion or other safe, humane, and effective methods of
7 fertility control.”.

8 (c) In subsection (b) of section 3, by striking “(2)
9 Where” and inserting “(d) If”.

10 (d) In subsection (d) (as so designated) of section 3—

11 (1) by striking “determines” and all that fol-
12 lows through “horses and burros to be” in subpara-
13 graph (B) and inserting “has exhausted all prac-
14 ticable options for maintaining a thriving natural ec-
15 ological balance on the range, the Secretary may
16 provide that wild free-roaming horses and burros
17 are”;

18 (2) by striking “for which he determines” the
19 first place it appears and inserting “so long as the
20 Secretary has determined”;

21 (3) by striking “and for which he determines he
22 can assure” and inserting “and the Secretary can
23 ensure”;

1 (4) by striking “(including” and all that follows
2 through “That, not” and inserting the following: “by
3 requiring that—

4 “(1) no”;

5 (5) in paragraph (1) (as so designated)—

6 (A) by striking “animals” the first two
7 places it appears and inserting “wild free-roam-
8 ing horses and burros”;

9 (B) by striking “such” the first place it
10 appears and inserting “the”; and

11 (C) by striking “and” after the semicolon
12 and adding the following:

13 “(2) each individual adopter shall execute an
14 appropriate attestation, pursuant to section 1001 of
15 title 18, United States Code, affirming that adopted
16 animals or their remains shall not be sold or trans-
17 ferred for consideration for processing into commer-
18 cial products; and

19 “(3) wild free-roaming horses and burros may
20 not be contained in corrals or short-term holding fa-
21 cilities for more than 6 months while awaiting dis-
22 position.”; and

23 (6) by striking subparagraph (C) and para-
24 graph (3).

1 (e) Redesignate subsection (c) of section 3 as sub-
2 section (e) and in such subsection—

3 (1) by striking “Where excess animals have”
4 and inserting “When a wild free-roaming horse or
5 burro has”;

6 (2) by striking “a period of”;

7 (3) by striking “is authorized” and inserting
8 “shall,”;

9 (4) by inserting a comma after “transferee”;

10 (5) by striking “to” before “grant”;

11 (6) by striking “title to not more than four ani-
12 mals to”; and

13 (7) by striking “at the end of the one-year pe-
14 riod” and inserting “title to that animal”.

15 (f) Redesignate subsection (d) of section 3 as sub-
16 section (f) and in such subsection—

17 (1) by striking “Wild” and inserting “(1) Ex-
18 cept as provided for in paragraph (2), wild”;

19 (2) by redesignating paragraphs (1) through
20 (4) as subparagraphs (A) through (D), respectively;

21 (3) in subparagraph (A) (as so redesignated),
22 by striking “(c) except for the limitation of sub-
23 section (c)(1)” and inserting “(e)”;

24 (4) in subparagraph (C) (as so redesignated),
25 by striking “(b)” and inserting “(h)”;

1 (5) in subparagraph (D) (as so redesignated),
2 by striking “; or” and inserting a period; and

3 (6) in paragraph (5), by striking “(5)” and all
4 that follows through “burro” and inserting the fol-
5 lowing:

6 “(2) No animal ever covered under this Act”.

7 (g) By inserting after section 3(f) (as so redesi-
8 gnated) the following:

9 “(g) Not later than one year after the date of enact-
10 ment of this subsection, for the purposes of carrying out
11 a successful wild free-roaming horse and burro adoption
12 program the Secretary shall—

13 “(1) implement creative and more aggressive
14 marketing strategies for the adoption program, in-
15 cluding the use of the internet or other media to
16 showcase horses and the adoption program;

17 “(2) explore public outreach opportunities, in-
18 cluding agreements with local and State organiza-
19 tions that are using horses for rehabilitation, ther-
20 apy, or prisoner programs;

21 “(3) provide resources to properly screen and
22 train potential adopters;

23 “(4) conduct tours of Bureau of Land Manage-
24 ment facilities for interested parties;

1 “(5) develop volunteer mentor and compliance
2 check programs for assisting the agency in facili-
3 tating successful adoptions;

4 “(6) develop a program through which potential
5 adopters may be offered an economic incentive for
6 successful completion of the adoption process; and

7 “(7) take any and all other actions that the
8 Secretary determines to be necessary and useful to-
9 wards expanding the wild horse and burro adoption
10 program.

11 “(h) The Secretary may not destroy or authorize the
12 destruction of wild free-roaming horses or burros unless
13 the Secretary—

14 “(1) determines that the wild free-roaming
15 horse or burro is terminally ill or fatally injured; and

16 “(2) ensures that the terminally ill or fatally in-
17 jured wild free-roaming horse or burro will be de-
18 stroyed in the most humane manner.

19 “(i) If the immediate health or safety of wild free-
20 roaming horses or burros is threatened, such as in severe
21 drought conditions, the Secretary may temporarily remove
22 animals from the range.

23 “(j) The Secretary may remove from the range wild
24 free-roaming horses and burros determined to be a threat

1 to the health and well being of native plant or wildlife spe-
2 cies.

3 “(k) Except in cases of removal under subsection (d),
4 (i), or (j), if the Secretary removes wild free-roaming
5 horses or burros from an area, the Secretary shall provide
6 a public notice on the Website of the Bureau of Land
7 Management 30 days prior to the planned removal.

8 “(l) The Secretary shall—

9 “(1) track the number of wild free-roaming
10 horses and burros injured or killed during gathering
11 or holding in a centralized database system;

12 “(2) determine what information on the treat-
13 ment of gathered wild free-roaming horses and bur-
14 ros in holding and adopted wild free-roaming horses
15 and burros could be provided to the public to help
16 inform the public about the treatment of wild free-
17 roaming horses and burros; and

18 “(3) ensure that such information is easily ac-
19 cessible on the Website of the Bureau of Land Man-
20 agement.”.

21 (h) By striking subsection (e) (relating to sale of ex-
22 cess animals).

23 **SEC. 6. PRIVATE MAINTENANCE.**

24 Section 4 (16 U.S.C. 1334) is amended—

1 (1) by striking “animals removed” and insert-
2 ing “animals returned to public land”; and

3 (2) by inserting “pursuant to section 3(h)”
4 after “agents of the Secretary”.

5 **SEC. 7. COOPERATIVE AGREEMENTS.**

6 Section 6 (16 U.S.C. 1336) is amended by inserting
7 “and other private entities” after “landowners”.

8 **SEC. 8. JOINT ADVISORY BOARD.**

9 Section 7 (16 U.S.C. 1337) is amended—

10 (1) by striking “nine” and inserting “12”;

11 (2) by striking “Governments” and all that fol-
12 lows “management.” and inserting “Governments
13 and shall include three representatives of the live-
14 stock industry; three representatives of the environ-
15 mental community; three representatives of the ani-
16 mal protection community; and three scientists with
17 expertise in wildlife management, animal husbandry,
18 or natural resource management.”; and

19 (3) by adding at the end the following new sen-
20 tence: “Nomination of members of the board shall be
21 conducted by public notice and comment in accord-
22 ance with the Federal Advisory Committee Act (5
23 U.S.C. appendix) and shall be for a term of four
24 years. No individual shall serve more than two con-
25 secutive terms.”.

1 **SEC. 9. CRIMINAL PROVISIONS.**

2 Section 8 (16 U.S.C. 1338) is amended—

3 (1) by striking “Any person who” and inserting
4 “(a) Any person who”; and

5 (2) in paragraph (4) of subsection (a) (as so
6 designated)—

7 (A) by striking “except as provided in sec-
8 tion 3(e),”;

9 (B) by inserting “, transports for proc-
10 essing,” after “processes”;

11 (C) by striking “the remains of a” and in-
12 serting “a live or deceased”; and

13 (D) by inserting “for consideration” after
14 “burro”.

15 **SEC. 10. LIMITATION OF AUTHORITY.**

16 Strike section 10 (16 U.S.C. 1339) and redesignate
17 section 11 as section 10.

18 **SEC. 11. REPORTS.**

19 Section 10 (as so redesignated by section 10 of this
20 Act) is amended as follows:

21 (1) By striking “After the expiration” and all
22 that follows through “thereafter” and inserting
23 “(a)(1) Not later than one year after the date of en-
24 actment of this subsection and annually thereafter”.

25 (2) By striking “will submit to Congress a joint
26 report” and inserting “shall submit to the Com-

1 mittee on Natural Resources of the House of Rep-
2 representatives and the Committee on Energy and Nat-
3 ural Resources of the Senate a joint report”.

4 (3) By striking “he” and inserting “the Secre-
5 taries”.

6 (4) By inserting after subsection (a)(1) (as so
7 designated) the following:

8 “(2) The report shall also contain the following—

9 “(A) the number of acres managed by the Bu-
10 reau of Land Management and the USDA Forest
11 Service for wild free-roaming horses and burros;

12 “(B) the appropriate management levels on
13 public rangelands;

14 “(C) a description of the methods used to deter-
15 mine the appropriate management levels and wheth-
16 er it was applied consistently across the agency;

17 “(D) the number of wild free-roaming horses
18 and burros on public lands;

19 “(E) a description of the methods used to de-
20 termine the wild free-roaming horse and burro popu-
21 lation;

22 “(F) any land acquisitions, exchanges, con-
23 servation easements, and voluntary grazing buyouts
24 that the Secretary has acquired or pursued for wild
25 free-roaming horses and burros;

1 “(G) any sanctuaries or exclusive use areas es-
2 tablished for wild free-roaming horses and burros;

3 “(H) programs established for fertility control
4 research, development, and management level imple-
5 mentation;

6 “(I) the extent to which fertility control is being
7 used by the Secretary to control the population of
8 wild free-roaming horses and burros;

9 “(J) the percentage of the Bureau of Land
10 Management budget devoted to contraception annu-
11 ally;

12 “(K) the ratio of animals the agency has
13 contracepted and put back on the range; and

14 “(L) which herds have been administered con-
15 traception and with what results.

16 “(3) Each report submitted under paragraph (2)
17 shall be made available to the public on the Website of
18 the Bureau of Land Management.”.

19 (5) By inserting “(b)” before “The Secretary of
20 the Interior”.

○