

Calendar No. 488

110TH CONGRESS }
1st Session

SENATE

{ REPORT
110-229

TO AMEND THE HORSE PROTECTION ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 311



NOVEMBER 14, 2007.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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NOVEMBER 14, 2007.—Ordered to be printed

Mr. INOUE, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 311]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 311) to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes, having considered the same, reports favorably thereon without an amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

S. 311 is a bill to end the interstate transportation of horses and other equines for the purpose of slaughter for human consumption.

BACKGROUND AND NEEDS

The purpose of S. 311 is to end the domestic slaughter of horses and other equines for the purpose of selling horse meat for human consumption. Debate regarding this issue revolves around the acceptability of horse slaughter, and how to care for or humanely dispose of horses that may no longer be slaughtered for human food.

While it is uncommon to consume horse meat in the United States, horse meat is considered a delicacy in many other nations. This culinary interest has generated a significant demand for horse products, and has led to the slaughter of horses for human consumption in facilities located in various nations. Until recently, three Belgian-owned facilities, located in Texas and Illinois, were the sole horse slaughterhouses in the United States. These facilities slaughtered for export approximately 100,000 horses annually.

The United States exported more than 17,000 metric tons of horse meat valued at about \$65 million in 2006. Most of these slaughtered horses were raised for other purposes—the majority for riding—but they were no longer wanted by their owners and were sold at auctions or through other means. The U.N. Food and Agriculture Organization estimates that Canada and Mexico, respectively, slaughtered a total of 88,000 and 626,000 horses for horsemeat in 2005. A portion of these horses were shipped from the United States, which, in 2005, exported more than 21,000 live horses to Canada and more than 11,000 to Mexico. According to the U.S. Department of Agriculture (USDA), over 90 percent of horses currently sent to slaughter are healthy and in good condition. Slaughterhouses generally seek such horses, rather than old or infirm horses, because of the superior quality of meat from these animals.

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 affirmative 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 the 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 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 of 1946 (AMA) (7 U.S.C. 1621 et seq.). The AMA is also the authority FSIS uses to provide voluntary food safety inspections of animals and products not specifically covered by either the FMIA or the Poultry Products Inspection Act.

Horses may have to be shipped long distances to reach the few plants that will slaughter 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 developed guidelines with the cooperation of horse groups, and they became effective February 5, 2002.

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 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 plants' owners if they continued to operate.

A separate March 2007 decision by a Federal Circuit Court effectively ended the domestic slaughter of horses for human consumption by blocking the USDA from providing any horse meat inspections. Congress ended Federal funding for horse meat inspections in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2006, but the USDA circumvented this provision by devising a plan to provide the inspections of horse meat for a fee. In the decision in the case by the Humane Society of the United States, the Court found that the USDA did not follow Federal procedures for setting up the inspection fee program. It has been reported that these rulings have forced the two plants in Texas to cease operations and will purportedly cause horse meat production at the Illinois facility to end.

SUMMARY OF PROVISIONS

S. 311 would 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 bill 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." Additionally, the bill 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 bill would increase the authorization of appropriations for administering the Act from \$500,000 to \$5 million annually.

LEGISLATIVE HISTORY

S. 311 was introduced on January 17, 2007, by Senator Landrieu and co-sponsored by Senators Ensign, Byrd, Snowe, Kerry, Collins, Boxer, Graham, Carper, Levin, Reed, and Menendez and was referred to the Senate Committee on Commerce, Science, and Transportation. On April 25, 2007, the Committee met in open executive session and ordered S. 311 reported favorably, without amendment.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 311—A bill to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption

Summary: S. 311 would amend provisions of the Horse Protection Act of 1970 related to the slaughter of certain equines for human consumption. The bill would authorize the Secretary of Agriculture to detain and examine, test, or taking evidence from any equine if the Secretary has probable cause to believe that the equine may be slaughtered for human consumption. The bill would authorize the appropriations of \$5 million per year for those purposes. Enacting S. 311 would not affect direct spending or revenues.

S. 311 would impose a private-sector and an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). It would amend the Horse Protection Act to prohibit shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donating a horse or other equine to be slaughtered for human consumption. CBO expects that the cost of the mandate would fall below the thresholds established by UMRA for private-sector and intergovernmental mandates (\$131 million and \$66 million, respectively, in 2007, adjusted annually for inflation).

Estimated cost to the Federal government: The estimated budgetary impact of S. 311 is shown in the following table. The costs of this legislation fall within budget function 350 (agriculture). Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 311 would cost the federal government \$4 million in fiscal year 2008 and \$24 million over the 2008–2012 period.

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	5	5	5	5	5
Estimated Outlays	4	5	5	5	5

Intergovernmental and private-sector impact: By prohibiting shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donating a horse or other equine to be slaughtered for human consumption, S. 311 would impose a private-sector and an intergovernmental mandate as defined in UMRA. The cost of the mandate to the private sector would be the loss of income to entities involved in the horse slaughter industry and the cost to horse owners to dispose of horses that otherwise would have been slaughtered for human consumption. Based on information from USDA, CBO expects that those costs would fall below the annual threshold established by UMRA for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

This mandate also would affect state, local, and tribal governments to the extent that they would be responsible for unwanted horses that otherwise would have been sold contrary to this prohibition. Because most unwanted horses remain in the hands of private individuals or organizations, CBO estimates that this cost would not be large, and would be well below the threshold estab-

lished in UMRA for intergovernmental mandates (\$66 million in 2007, adjusted annually for inflation).

Estimate prepared by: Federal Costs: Jim Langley; Impact on State, Local, and Tribal Governments: Marjorie Miller; Impact on the Private Sector: Amy Petz.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 311 is expected to impact the small number of persons in United States who may seek to export horses to other countries for the purpose of slaughter for human consumption.

ECONOMIC IMPACT

S. 311 is not expected to have an adverse impact on the U.S. economy. At the present time, the commercial facilities that had previously engaged in the slaughtering of horses for human consumption have ended this service, so this bill will have no impact on domestic slaughter operations. Horse owners who sell horses for slaughter to other countries, typically Mexico or Canada, would be prohibited from transporting horses for such purposes in interstate commerce. According to the USDA, roughly 3,000 horses are currently being sent to Canada and Mexico for slaughter for human consumption per month now that all domestic slaughterhouses are closed, equaling roughly 72,000 horses exported for this purpose per year. Ending this export trade may result in lower income to owners currently involved in this trade for the sale of their horses, but the Committee believes that many outlets will still exist for horse owners to dispose of their horses for other commercial purposes. For further analysis of the economic impact on the private sector, see page 2 of the CBO estimate.

PRIVACY

S. 311 would have no effect on the privacy rights of individuals.

PAPERWORK

The Committee anticipates no increase in paperwork burdens on requirements for private individuals or businesses as a result of this bill.

SECTION-BY-SECTION ANALYSIS

Section 1: Prohibits the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling or donation of horses and other equines for slaughter for human consumption

Subsection (a) would define human consumption and what constitutes the slaughter of horses.

Subsection (b) would contain the bill's findings, including that horses are vital to the United States and deserve protection; that

horses are domestic animals; that they are unlike cows, pigs, and other animals that are raised for the purpose of being slaughtered for human consumption; that horses cannot be safely and humanely transported in double deck trailers; and that horse slaughter has an adverse effect and burden on interstate and foreign commerce.

Subsection (c) would outline what actions are prohibited if the purpose associated with that action is to slaughter a horse for human consumption.

Subsection (d) would provide the Secretary of Agriculture the authority to detain and examine horses at various locations for the purpose of taking evidence on the belief that the horse is sore or if that an action prohibited under subsection (c) is taking place.

Subsection (e) would increase the authorized appropriations amount to carry out the Horse Protection Act from \$500,000 to \$5,000,000.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI 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 material is printed in *italic*, existing law in which no change is proposed is shown in roman):

HORSE PROTECTION ACT

[15 U.S.C. 1821—Definitions]

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

(1) *The term “human consumption” means ingestion by people as a source of food.*

[(1)] (2) The term “management” means any person who organizes, exercises control over, or administers or who is responsible for organizing, directing, or administering.

[(2)] (3) The term “Secretary” means the Secretary of Agriculture.

(4) *The term “slaughter” means the killing of 1 or more horses or other equines with the intent to sell or trade the flesh for human consumption.*

[(3)] (5) 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)] (6) 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.

[15 U.S.C. 1822—Congressional statement of findings]

SEC. 3. The Congress finds and declares that—

(1) *horses and other equines play a vital role in the collective experience of the United States and deserve protection and compassion;*

(2) *horses and other equines are domestic animals that are used primarily for recreation, pleasure, and sport;*

(3) *unlike cows, pigs, and many other animals, horses and other equines are not raised for the purpose of being slaughtered for human consumption;*

(4) *individuals selling horses or other equines at auctions are seldom aware that the animals may be bought for the purpose of being slaughtered for human consumption;*

(5) *the Animal and Plant Health Inspection Service of the Department of Agriculture has found that horses and other equines cannot be safely and humanely transported in double deck trailers;*

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

[(2)] (7) *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)] (8) [the movement, showing, exhibition, or sale of sore horses in intrastate commerce adversely affects and burdens interstate and foreign commerce] *the movement, showing, exhibition, or sale of sore horses in intrastate commerce, and the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation in intrastate commerce of horses and other equines to be slaughtered for human consumption, adversely affect and burden interstate and foreign commerce;*

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

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

[15 U.S.C. 1824—Unlawful acts]

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 em-

ployment 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 shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of any horse or other equine to be slaughtered for human consumption.*

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

[(9)] (10) 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)] (11) The removal of any marking required by the Secretary to identify a horse as being detained.

[(11)] (12) 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 inspec-

tions or any other activity authorized to be performed by the Secretary under this Act.

[15 U.S.C. 1825—Violations and penalties]

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 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) 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 examination, testing, or the taking of evidence—*

(A) any horse at any horse show, horse exhibition, or horse sale or auction that is sore or that the Secretary has probable cause to believe is sore; and

(B) any horse or other equine that the Secretary has probable cause to believe is being shipped, transported, moved, delivered, received, possessed, purchased, sold, or donated in violation of section 5(8).

[(1)] (2) [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)] (3) 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.

[15 U.S.C. 1831—Authorization of appropriations]

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】** *\$5,000,000*, as may be necessary to carry out this Act.

