

HORSE TRANSPORTATION SAFETY ACT OF 2009

SEPTEMBER 28, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OBERSTAR, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 305]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 305) to amend title 49, United States Code, to prohibit the transportation of horses in interstate transportation in a motor vehicle containing two or more levels stacked on top of one another, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

H.R. 305, the “Horse Transportation Safety Act of 2009”, prohibits the interstate transportation of horses in a motor vehicle containing two or more levels stacked on top of one another and authorizes civil penalties of at least \$100 but not more than \$500 for each violation of this prohibition.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 305 prohibits the interstate transportation of horses in a motor vehicle containing two or more levels stacked on top of one another and authorizes civil penalties of at least \$100 but not more than \$500 for each violation of this prohibition. Double-stacked trailers are designed for the transportation of livestock, such as cattle and hogs. Since horses are much larger and taller than cattle, trailers able to be stacked on top of one another do not provide enough headroom for horses to stand upright. The American Veterinary Medical Association (AMVA) recommends a trailer height of seven to eight feet as adequate for horse transport.

Most horse owners have a strong interest in protecting their animals and provide transportation that takes into account the comfort and safety of the horses. However, in some cases, the welfare of the animal may not be a primary consideration, such as transportation to feed lots or slaughter.

Recent highway accidents have raised questions about the safety and humanity of transporting horses in double-stacked trailers. AVMA has found that double-stacked trailers increase the rates of injury to horses in the event of an accident. Further, because crashes involving double-stacked horse trailers can cause significant debris and destruction, these accidents can result in significant clean up costs. Examples of recent accidents include:

- On May 18, 2010, a cattle trailer hauling horses to a feedlot in Texas crashed on the Turner Turnpike in Oklahoma. Eleven of the 30 horses being transported died.
- In October 2007, a double-decker tractor trailer carrying 59 Belgian draft horses through Wadsworth, Illinois, crashed; 15 of the horses died as a result of the accident.
- In 2006, a double-stacked trailer hauling 41 horses to a slaughterhouse in DeKalb, Illinois, crashed, killing 16 horses.

In 1996, in the Federal Agriculture Improvement and Reform Act of 1996 (P.L. 104–127), Congress required the U.S. Department of Agriculture (USDA) to issue regulations to regulate, in the United States, the commercial transportation of horses bound for a slaughter facility. USDA issued a final rule on December 7, 2001. In the rule, USDA acknowledged that while double-stacked trailers can carry more horses than single-deck trailers, “we do not believe that equines can be safely and humanely transported on a conveyance that has an animal cargo space divided into two or more stacked levels.”¹

USDA prohibited the use of double-stacked trailers to carry horses to slaughter beginning five years after issuance of the final rule, or December 2006. The regulations also included requirements for food and water for horses prior to being loaded into trailers bound for slaughter. However, this rule only applies to the transportation of horses directly to a slaughter facility. The vast majority of slaughterhouses are located outside of the United States, in Canada or Mexico.

Currently, horses can be transported long distances across the United States to feedlots located near the border, or other interim points, in double-stacked trailers before being transferred to single trailers for final transportation to slaughter because these transportation segments are not covered by USDA regulations. There is also no prohibition against double-stacked trailers to transport horses for any reason other than transporting horses bound for slaughter.

SUMMARY OF THE LEGISLATION

Section 1. Short title

Section 1 designates the short title of the Act as the “Horse Transportation Safety Act of 2009”.

¹Commerical Transport of Equines to Slaughter, 66 Fed. Reg. 63594 (December 7, 2001), <http://frwebgate3.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=VEzgIr/0/2/0&WAIAction=retrieve>.

Sec. 2. Transportation of horses

Subsection (a) amends title 49, United States Code, to add a new section 80505 that prohibits any person from transporting, or causing to be transported, a horse from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession of the United States in a motor vehicle containing two or more levels stacked on top of one another. Subsection (a) further establishes civil penalties of at least \$100 but not more than \$500 for each violation of this prohibition. The civil penalties authorized by this section do not grant the Secretary of Transportation the authority to issue penalties. Rather, the section directs the Attorney General, upon learning of a violation, to bring a civil action to collect the penalty in the district court of the United States for the judicial district in which the violation occurred or in which the defendant resides or does business.

Subsection (b) makes a conforming amendment to chapter 805 of title 49, United States Code.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

In the 110th Congress, Representative Mark Steven Kirk introduced H.R. 6278, the “Horse Transportation Safety Act of 2008”, on June 17, 2008. No further action was taken on the bill.

In the 111th Congress, Representative Mark Steven Kirk introduced H.R. 305 on January 8, 2009. On July 29, 2010, the Committee on Transportation and Infrastructure met in open session, and ordered the bill reported favorably to the House by voice vote with a quorum present.

RECORD VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 305 or ordering the bill reported. A motion to order H.R. 305 reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to prohibit the interstate transportation of horses in a motor vehicle containing two or more levels stacked on top of one another.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 305 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 13, 2010.

Hon. JAMES L. OBERSTAR,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 305, the Horse Transportation Safety Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas W. Elmendorf, Director).

Enclosure.

H.R. 305—Horse Transportation Safety Act of 2009

H.R. 305 would prohibit the interstate transportation of horses in motor vehicles containing two or more levels and establishes a civil penalty for violators. Because CBO expects that few penalties would be imposed and that enforcement of this new prohibition would occur as part of current safety reviews of commercial vehicles, we estimate that enacting H.R. 305 would have no significant impact on the federal budget.

Pay-as-you-go procedures apply to the legislation because the bill would create a new civil penalty of \$500 for violations of the law. Civil fines are recorded in the budget as revenues and deposited into the general fund of the Treasury. Based on information from the Department of Transportation, CBO estimates that the number of violations would be small and would not result in a significant impact on the federal budget.

H.R. 305 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

The prohibitions in H.R. 305 would impose a private-sector mandate, as defined in UMRA. That mandate would primarily affect entities that transport horses to rodeos or feeding centers. Based

on information from the United States Department of Agriculture and industry experts, CBO estimates that the cost of the mandate would fall below the annual threshold established in UMRA for private-sector mandates (\$141 million in 2010, adjusted annually for inflation).

The CBO staff contact for this estimate is Sarah Puro. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits, as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. H.R. 305 does not contain any earmarks, limited tax benefits, or limited tariff benefits under clause 9(e), 9(f), or 9(g) of rule XXI.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (P.L. 104-4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 305 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (P.L. 104-1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE X—MISCELLANEOUS

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CHAPTER 805—MISCELLANEOUS

Sec.
80501. Damage to transported property.

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80505. *Transportation of horses.*

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§ 80505. *Transportation of horses*

(a) *PROHIBITION.*—No person may transport, or cause to be transported, a horse from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession of the United States in a motor vehicle containing two or more levels stacked on top of one another.

(b) *CIVIL PENALTY.*—A person that knowingly violates this section is liable to the United States Government for a civil penalty of at least \$100 but not more than \$500 for each violation. A separate violation occurs under this section for each horse that is transported, or caused to be transported, in violation of this section. On learning of a violation, the Attorney General shall bring a civil action to collect the penalty in the district court of the United States for the judicial district in which the violation occurred or the defendant resides or does business.

(c) *MOTOR VEHICLE DEFINED.*—In this section, the term “motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

(d) *RELATIONSHIP TO OTHER LAWS.*—The penalty provided under this section shall be in addition to a penalty or remedy available under any other law or common law.

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