

107TH CONGRESS
1ST SESSION

S. 1482

To consolidate and revise the authority of the Secretary of Agriculture relating to protection of animal health.

IN THE SENATE OF THE UNITED STATES

OCTOBER 2, 2001

Mr. HARKIN (for himself, Mr. LUGAR, Mr. HATCH, Mr. DAYTON, Mr. AKAKA, Mr. JOHNSON, Mr. ALLARD, Mr. CRAPO, Mr. CRAIG, Mrs. LINCOLN, Mr. HELMS, and Mr. NELSON of Nebraska) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To consolidate and revise the authority of the Secretary of Agriculture relating to protection of animal health.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Animal Health Protection Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Restriction on importation or entry.

Sec. 5. Exportation.
 Sec. 6. Interstate movement.
 Sec. 7. Seizure, quarantine, and disposal.
 Sec. 8. Inspections, seizures, and warrants.
 Sec. 9. Detection, control, and eradication of diseases and pests.
 Sec. 10. Veterinary accreditation program.
 Sec. 11. Cooperation.
 Sec. 12. Reimbursable agreements.
 Sec. 13. Administration and claims.
 Sec. 14. Penalties.
 Sec. 15. Enforcement.
 Sec. 16. Regulations and orders.
 Sec. 17. Authorization of appropriations.
 Sec. 18. Repeals and conforming amendments.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the prevention, detection, control, and eradi-
 4 cation of diseases and pests of animals are essential
 5 to protect—

6 (A) animal health;

7 (B) the health and welfare of the people of
 8 the United States;

9 (C) the economic interests of the livestock
 10 and related industries of the United States;

11 (D) the environment of the United States;
 12 and

13 (E) interstate commerce and foreign com-
 14 merce of the United States in animals and
 15 other articles;

16 (2) animal diseases and pests are primarily
 17 transmitted by animals and articles regulated under
 18 this Act;

1 (3) the health of animals is affected by the
2 methods by which animals and articles are trans-
3 ported in interstate commerce and foreign com-
4 merce;

5 (4) the Secretary must continue to conduct re-
6 search on animal diseases and pests that constitute
7 a threat to the livestock of the United States; and

8 (5)(A) all animals and articles regulated under
9 this Act are in or affect interstate commerce or for-
10 eign commerce; and

11 (B) regulation by the Secretary and cooperation
12 by the Secretary with foreign countries, States or
13 other jurisdictions, or persons are necessary—

14 (i) to prevent and eliminate burdens on
15 interstate commerce and foreign commerce;

16 (ii) to regulate effectively interstate com-
17 merce and foreign commerce; and

18 (iii) to protect the agriculture, environ-
19 ment, economy, and health and welfare of the
20 people of the United States.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) **ANIMAL.**—The term “animal” means any
24 member of the animal kingdom (except a human).

1 (2) ARTICLE.—The term “article” means any
2 pest or disease or any material or tangible object
3 that could harbor a pest or disease.

4 (3) DISEASE.—The term “disease” means—

5 (A) any infectious or noninfectious disease
6 or condition affecting the health of livestock; or

7 (B) any condition detrimental to produc-
8 tion of livestock.

9 (4) ENTER.—The term “enter” means to move
10 into the commerce of the United States.

11 (5) EXPORT.—The term “export” means to
12 move from a place within the territorial limits of the
13 United States to a place outside the territorial limits
14 of the United States.

15 (6) FACILITY.—The term “facility” means any
16 structure.

17 (7) IMPORT.—The term “import” means to
18 move from a place outside the territorial limits of
19 the United States to a place within the territorial
20 limits of the United States.

21 (8) INDIAN TRIBE.—The term “Indian tribe”
22 has the meaning given the term in section 4 of the
23 Indian Self-Determination and Education Assistance
24 Act (25 U.S.C. 450b).

1 (9) INTERSTATE COMMERCE.—The term “inter-
2 state commerce” means trade, traffic, or other
3 commerce—

4 (A) between a place in a State and a place
5 in another State, or between places within the
6 same State but through any place outside that
7 State; or

8 (B) within the District of Columbia or any
9 territory or possession of the United States.

10 (10) LIVESTOCK.—The term “livestock” means
11 all farm-raised animals.

12 (11) MEANS OF CONVEYANCE.—The term
13 “means of conveyance” means any personal property
14 used for or intended for use for the movement of
15 any other personal property.

16 (12) MOVE.—The term “move” means—

17 (A) to carry, enter, import, mail, ship, or
18 transport;

19 (B) to aid, abet, cause, or induce carrying,
20 entering, importing, mailing, shipping, or trans-
21 porting;

22 (C) to offer to carry, enter, import, mail,
23 ship, or transport;

24 (D) to receive in order to carry, enter, im-
25 port, mail, ship, or transport;

1 (E) to release into the environment; or

2 (F) to allow any of the activities described
3 in this paragraph.

4 (13) PEST.—The term “pest” means any of the
5 following that can directly or indirectly injure, cause
6 damage to, or cause disease in livestock:

7 (A) A protozoan.

8 (B) A plant.

9 (C) A bacteria.

10 (D) A fungus.

11 (E) A virus or viroid.

12 (F) An infectious agent or other pathogen.

13 (G) An arthropod.

14 (H) A parasite.

15 (I) A prion.

16 (J) A vector.

17 (K) An animal.

18 (L) Any organism similar to or allied with
19 any of the organisms described in this para-
20 graph.

21 (14) SECRETARY.—The term “Secretary”
22 means the Secretary of Agriculture.

23 (15) STATE.—The term “State” means any of
24 the States, the District of Columbia, the Common-
25 wealth of Puerto Rico, Guam, the Commonwealth of

1 the Northern Mariana Islands, the Virgin Islands of
2 the United States, or any territory or possession of
3 the United States.

4 (16) THIS ACT.—Except when used in this sec-
5 tion, the term “this Act” includes any regulation or
6 order issued by the Secretary under the authority of
7 this Act.

8 (17) UNITED STATES.—The term “United
9 States” means all of the States.

10 **SEC. 4. RESTRICTION ON IMPORTATION OR ENTRY.**

11 (a) IN GENERAL.—The Secretary may prohibit or
12 restrict—

13 (1) the importation or entry of any animal, arti-
14 cle, or means of conveyance, or use of any means of
15 conveyance or facility, if the Secretary determines
16 that the prohibition or restriction is necessary to
17 prevent the introduction into or dissemination within
18 the United States of any pest or disease of livestock;

19 (2) the further movement of any animal that
20 has strayed into the United States if the Secretary
21 determines that the prohibition or restriction is nec-
22 essary to prevent the introduction into or dissemina-
23 tion within the United States of any pest or disease
24 of livestock; and

1 (3) the use of any means of conveyance in con-
2 nection with the importation or entry of livestock if
3 the Secretary determines that the prohibition or re-
4 striction is necessary because the means of convey-
5 ance has not been maintained in a clean and sani-
6 tary condition or does not have accommodations for
7 the safe and proper movement of livestock.

8 (b) REGULATIONS.—The Secretary may promulgate
9 regulations requiring that any animal imported or entered
10 be raised or handled under post-importation quarantine
11 conditions by or under the supervision of the Secretary
12 for the purpose of determining whether the animal is or
13 may be affected by any pest or disease of livestock.

14 (c) DESTRUCTION OR REMOVAL.—

15 (1) IN GENERAL.—The Secretary may order the
16 destruction or removal from the United States of—

17 (A) any animal, article, or means of con-
18 veyance that has been imported but has not en-
19 tered the United States if the Secretary deter-
20 mines that destruction or removal from the
21 United States is necessary to prevent the intro-
22 duction into or dissemination within the United
23 States of any pest or disease of livestock;

1 (B) any animal or progeny of any animal,
2 article, or means of conveyance that has been
3 imported or entered in violation of this Act; or

4 (C) any animal that has strayed into the
5 United States if the Secretary determines that
6 destruction or removal from the United States
7 is necessary to prevent the introduction into or
8 dissemination within the United States of any
9 pest or disease of livestock.

10 (2) REQUIREMENTS OF OWNERS.—

11 (A) ORDERS TO DISINFECT.—The Sec-
12 retary may require the disinfection of—

13 (i) a means of conveyance used in
14 connection with the importation of an ani-
15 mal;

16 (ii) an individual involved in the im-
17 portation of an animal and personal arti-
18 cles of the individual; and

19 (iii) any article used in the importa-
20 tion of an animal.

21 (B) FAILURE TO COMPLY WITH ORDERS.—

22 If an owner fails to comply with an order of the
23 Secretary under this section, the Secretary
24 may—

1 (i) take remedial action, destroy, or
2 remove from the United States the animal
3 or progeny of any animal, article, or means
4 of conveyance as authorized under para-
5 graph (1); and

6 (ii) recover from the owner the costs
7 of any care, handling, disposal, or other
8 action incurred by the Secretary in connec-
9 tion with the remedial action, destruction,
10 or removal.

11 **SEC. 5. EXPORTATION.**

12 (a) IN GENERAL.—The Secretary may prohibit or
13 restrict—

14 (1) the exportation of any animal, article, or
15 means of conveyance if the Secretary determines
16 that the prohibition or restriction is necessary to
17 prevent the dissemination from or within the United
18 States of any pest or disease of livestock;

19 (2) the exportation of any livestock if the Sec-
20 retary determines that the livestock is unfit to be
21 moved;

22 (3) the use of any means of conveyance or facil-
23 ity in connection with the exportation of any animal
24 or article if the Secretary determines that the prohi-
25 bition or restriction is necessary to prevent the dis-

1 semination from or within the United States of any
2 pest or disease of livestock; or

3 (4) the use of any means of conveyance in con-
4 nection with the exportation of livestock if the Sec-
5 retary determines that the prohibition or restriction
6 is necessary because the means of conveyance has
7 not been maintained in a clean and sanitary condi-
8 tion or does not have accommodations for the safe
9 and proper movement and humane treatment of live-
10 stock.

11 (b) REQUIREMENTS OF OWNERS.—

12 (1) ORDERS TO DISINFECT.—The Secretary
13 may require the disinfection of—

14 (A) a means of conveyance used in connec-
15 tion with the exportation of an animal;

16 (B) an individual involved in the expor-
17 tation of an animal and personal articles of the
18 individual; and

19 (C) any article used in the exportation of
20 an animal.

21 (2) FAILURE TO COMPLY WITH ORDERS.—If an
22 owner fails to comply with an order of the Secretary
23 under this section, the Secretary may—

1 (A) take remedial action with respect to
2 the animal, article, or means of conveyance re-
3 ferred to in paragraph (1); and

4 (B) recover from the owner the costs of
5 any care, handling, disposal, or other action in-
6 curred by the Secretary in connection with the
7 remedial action.

8 (c) CERTIFICATION.—The Secretary may certify the
9 classification, quality, quantity, condition, processing, han-
10 dling, or storage of any animal or article intended for ex-
11 port.

12 **SEC. 6. INTERSTATE MOVEMENT.**

13 The Secretary may prohibit or restrict—

14 (1) the movement in interstate commerce of any
15 animal, article, or means of conveyance if the Sec-
16 retary determines that the prohibition or restriction
17 is necessary to prevent the introduction or dissemi-
18 nation of any pest or disease of livestock; and

19 (2) the use of any means of conveyance or facil-
20 ity in connection with the movement in interstate
21 commerce of any animal or article if the Secretary
22 determines that the prohibition or restriction is nec-
23 essary to prevent the introduction or dissemination
24 of any pest or disease of livestock.

1 **SEC. 7. SEIZURE, QUARANTINE, AND DISPOSAL.**

2 (a) IN GENERAL.—The Secretary may hold, seize,
3 quarantine, treat, destroy, dispose of, or take other reme-
4 dial action with respect to—

5 (1) any animal or progeny of any animal, arti-
6 cle, or means of conveyance that—

7 (A) is moving or has been moved in inter-
8 state commerce or has been imported and en-
9 tered; and

10 (B) the Secretary has reason to believe
11 may carry, may have carried, or may have been
12 affected with or exposed to any pest or disease
13 of livestock at the time of movement or that is
14 otherwise in violation of this Act;

15 (2) any animal or progeny of any animal, arti-
16 cle, or means of conveyance that is moving or is
17 being handled, or has moved or has been handled, in
18 interstate commerce in violation of this Act;

19 (3) any animal or progeny of any animal, arti-
20 cle, or means of conveyance that has been imported,
21 and is moving or is being handled or has moved or
22 has been handled, in violation of this Act; or

23 (4) any animal or progeny of any animal, arti-
24 cle, or means of conveyance that the Secretary finds
25 is not being maintained, or has not been maintained,
26 in accordance with any post-importation quarantine,

1 post-importation condition, post-movement quar-
2 antine, or post-movement condition in accordance
3 with this Act.

4 (b) EXTRAORDINARY EMERGENCIES.—

5 (1) IN GENERAL.—Subject to paragraph (2), if
6 the Secretary determines that an extraordinary
7 emergency exists because of the presence in the
8 United States of a pest or disease of livestock and
9 that the presence of the pest or disease threatens
10 the livestock of the United States, the Secretary
11 may—

12 (A) hold, seize, treat, apply other remedial
13 actions to, destroy (including preventative
14 slaughter), or otherwise dispose of, any animal,
15 article, facility, or means of conveyance if the
16 Secretary determines the action is necessary to
17 prevent the dissemination of the pest or disease;
18 and

19 (B) prohibit or restrict the movement or
20 use within a State, or any portion of a State of
21 any animal or article, means of conveyance, or
22 facility if the Secretary determines that the pro-
23 hibition or restriction is necessary to prevent
24 the dissemination of the pest or disease.

25 (2) STATE ACTION.—

1 (A) IN GENERAL.—The Secretary may
2 take action in a State under this subsection
3 only on finding that measures being taken by
4 the State are inadequate to control or eradicate
5 the pest or disease, after review and consulta-
6 tion with—

7 “(i) the Governor or an appropriate
8 animal health official of the State; or

9 “(ii) in the case of any animal, article,
10 facility, or means of conveyance under the
11 jurisdiction of an Indian tribe, the head of
12 the Indian tribe.

13 (B) NOTICE.—Subject to subparagraph
14 (C), before any action is taken in a State under
15 subparagraph (A), the Secretary shall—

16 (i) notify the Governor, an appro-
17 priate animal health official of the State,
18 or head of the Indian tribe of the proposed
19 action;

20 (ii) issue a public announcement of
21 the proposed action; and

22 (iii) publish in the Federal Register—

23 (I) the findings of the Secretary;

24 (II) a description of the proposed

25 action; and

1 (III) a statement of the reasons
2 for the proposed action.

3 (C) NOTICE AFTER ACTION.—If it is not
4 practicable to publish in the Federal Register
5 the information required under subparagraph
6 (B)(iii) before taking action under subpara-
7 graph (A), the Secretary shall publish the infor-
8 mation as soon as practicable, but not later
9 than 10 business days, after commencement of
10 the action.

11 (c) QUARANTINE, DISPOSAL, OR OTHER REMEDIAL
12 ACTION.—

13 (1) IN GENERAL.—The Secretary, in writing,
14 may order the owner of any animal, article, facility,
15 or means of conveyance referred to in subsection (a)
16 or (b) to maintain in quarantine, dispose of, or take
17 other remedial action with respect to the animal, ar-
18 ticle, facility, or means of conveyance, in a manner
19 determined by the Secretary.

20 (2) FAILURE TO COMPLY WITH ORDERS.—If
21 the owner fails to comply with the order of the Sec-
22 retary, the Secretary may—

23 (A) seize, quarantine, dispose of, or take
24 other remedial action with respect to the ani-

mal, article, facility, or means of conveyance
under subsection (a) or (b); and

(B) recover from the owner the costs of
any care, handling, disposal, or other remedial
action incurred by the Secretary in connection
with the seizure, quarantine, disposal, or other
remedial action.

(d) COMPENSATION.—

(1) IN GENERAL.—Except as provided in para-
graph (3), the Secretary shall compensate the owner
of any animal, article, facility, or means of convey-
ance that the Secretary requires to be destroyed
under this section.

(2) AMOUNT.—

(A) IN GENERAL.—Subject to subpara-
graphs (B) and (C), the compensation shall be
based on the fair market value, as determined
by the Secretary, of the destroyed animal, arti-
cle, facility, or means of conveyance.

(B) LIMITATION.—Compensation paid any
owner under this subsection shall not exceed the
difference between—

(i) the fair market value of the de-
stroyed animal, article, facility, or means
of conveyance; and

1 (ii) any compensation received by the
 2 owner from a State or other source for the
 3 destroyed animal, article, facility, or means
 4 of conveyance.

5 (C) REVIEWABILITY OF DETERMINA-
 6 TION.—The determination by the Secretary of
 7 the amount to be paid under this subsection
 8 shall be final and not subject to judicial review.

9 (3) EXCEPTIONS.—No payment shall be made
 10 by the Secretary under this subsection for—

11 (A) any animal, article, facility, or means
 12 of conveyance that has been moved or handled
 13 by the owner in violation of an agreement for
 14 the control and eradication of diseases or pests
 15 or in violation of this Act;

16 (B) any progeny of any animal or article,
 17 which animal or article has been moved or han-
 18 dled by the owner of the animal or article in
 19 violation of this Act;

20 (C) any animal, article, or means of con-
 21 veyance that is refused entry under this Act; or

22 (D) any animal, article, facility, or means
 23 of conveyance that becomes or has become af-
 24 fected with or exposed to any pest or disease of
 25 livestock because of a violation of an agreement

1 for the control and eradication of diseases or
2 pests or a violation of this Act by the owner.

3 **SEC. 8. INSPECTIONS, SEIZURES, AND WARRANTS.**

4 (a) GUIDELINES.—The activities authorized by this
5 section shall be carried out consistent with guidelines ap-
6 proved by the Attorney General.

7 (b) WARRANTLESS INSPECTIONS.—The Secretary
8 may stop and inspect, without a warrant, any person or
9 means of conveyance moving—

10 (1) into the United States, to determine wheth-
11 er the person or means of conveyance is carrying
12 any animal or article regulated under this Act;

13 (2) in interstate commerce, on probable cause
14 to believe that the person or means of conveyance is
15 carrying any animal or article regulated under this
16 Act; or

17 (3) in intrastate commerce from any State, or
18 any portion of a State, quarantined under section
19 7(b), on probable cause to believe that the person or
20 means of conveyance is carrying any animal or arti-
21 cle quarantined under section 7(b).

22 (c) INSPECTIONS WITH WARRANTS.—

23 (1) IN GENERAL.—The Secretary may enter,
24 with a warrant, any premises in the United States

1 for the purpose of making inspections and seizures
2 under this Act.

3 (2) APPLICATION AND ISSUANCE OF WAR-
4 RANTS.—

5 (A) IN GENERAL.—On proper oath or af-
6 firmation showing probable cause to believe that
7 there is on certain premises any animal, article,
8 facility, or means of conveyance regulated under
9 this Act, a United States judge, a judge of a
10 court of record in the United States, or a
11 United States magistrate judge may issue a
12 warrant for the entry on premises within the ju-
13 risdiction of the judge or magistrate to make
14 any inspection or seizure under this Act.

15 (B) EXECUTION.—The warrant may be
16 applied for and executed by the Secretary or
17 any United States marshal.

18 **SEC. 9. DETECTION, CONTROL, AND ERADICATION OF DIS-**
19 **EASES AND PESTS.**

20 (a) IN GENERAL.—The Secretary may carry out op-
21 erations and measures to detect, control, or eradicate any
22 pest or disease of livestock (including the drawing of blood
23 and diagnostic testing of animals), including animals at
24 a slaughterhouse, stockyard, or other point of concentra-
25 tion.

1 (b) COMPENSATION.—The Secretary may pay a claim
2 arising out of the destruction of any animal, article, or
3 means of conveyance consistent with the purposes of this
4 Act.

5 **SEC. 10. VETERINARY ACCREDITATION PROGRAM.**

6 (a) IN GENERAL.—The Secretary may establish a
7 veterinary accreditation program that is consistent with
8 this Act, including the establishment of standards of con-
9 duct for accredited veterinarians.

10 (b) CONSULTATION.—The Secretary shall consult
11 with State animal health officials regarding the establish-
12 ment of the veterinary accreditation program.

13 **SEC. 11. COOPERATION.**

14 (a) IN GENERAL.—To carry out this Act, the Sec-
15 retary may cooperate with other Federal agencies, States
16 or political subdivisions of States, national governments
17 of foreign countries, local governments of foreign coun-
18 tries, domestic or international organizations, domestic or
19 international associations, Indian tribes, and other per-
20 sons.

21 (b) RESPONSIBILITY.—The person or other entity co-
22 operating with the Secretary shall be responsible for the
23 authority necessary to carry out operations or measures—

24 (1) on all land and property within a foreign
25 country or State, or under the jurisdiction of an In-

1 dian tribe, other than on land and property owned
2 or controlled by the United States; and

3 (2) using other facilities and means, as deter-
4 mined by the Secretary.

5 (c) SCREWORMS.—

6 (1) IN GENERAL.—The Secretary may, inde-
7 pendently or in cooperation with national govern-
8 ments of foreign countries or international organiza-
9 tions or associations, produce and sell sterile
10 screwworms to any national government of a foreign
11 country or international organization or association,
12 if the Secretary determines that the livestock indus-
13 try and related industries of the United States will
14 not be adversely affected by the production and sale.

15 (2) PROCEEDS.—

16 (A) INDEPENDENT PRODUCTION AND
17 SALE.—If the Secretary independently produces
18 and sells sterile screwworms under paragraph
19 (1), the proceeds of the sale shall be—

20 (i) deposited into the Treasury of the
21 United States; and

22 (ii) credited to the account from which
23 the operating expenses of the facility pro-
24 ducing the sterile screwworms have been
25 paid.

1 (B) COOPERATIVE PRODUCTION AND
2 SALE.—

3 (i) IN GENERAL.—If the Secretary co-
4 operates to produce and sell sterile
5 screwworms under paragraph (1), the pro-
6 ceeds of the sale shall be divided between
7 the United States and the cooperating na-
8 tional government or international organi-
9 zation or association in a manner deter-
10 mined by the Secretary.

11 (ii) ACCOUNT.—The United States
12 portion of the proceeds shall be—

13 (I) deposited into the Treasury of
14 the United States; and

15 (II) credited to the account from
16 which the operating expenses of the
17 facility producing the sterile
18 screwworms have been paid.

19 (d) COOPERATION IN PROGRAM ADMINISTRATION.—
20 The Secretary may cooperate with State authorities, In-
21 dian tribe authorities, or other persons in the administra-
22 tion of regulations for the improvement of livestock and
23 livestock products.

24 (e) CONSULTATION WITH OTHER FEDERAL AGEN-
25 CIES.—

1 (1) IN GENERAL.—The Secretary shall consult
 2 with the head of a Federal agency with respect to
 3 any activity that is under the jurisdiction of the
 4 Federal agency.

5 (2) LEAD AGENCY.—The Department of Agri-
 6 culture shall be the lead agency with respect to
 7 issues related to pests and diseases of livestock.

8 **SEC. 12. REIMBURSABLE AGREEMENTS.**

9 (a) AUTHORITY TO ENTER INTO AGREEMENTS.—
 10 The Secretary may enter into reimbursable fee agreements
 11 with persons for preclearance of animals or articles at lo-
 12 cations outside the United States for movement into the
 13 United States.

14 (b) FUNDS COLLECTED FOR PRECLEARANCE.—
 15 Funds collected for preclearance activities shall—

16 (1) be credited to accounts that may be estab-
 17 lished by the Secretary for carrying out this section;
 18 and

19 (2) remain available until expended for the
 20 preclearance activities, without fiscal year limitation.

21 (c) PAYMENT OF EMPLOYEES.—

22 (1) IN GENERAL.—Notwithstanding any other
 23 law, the Secretary may pay an officer or employee
 24 of the Department of Agriculture performing serv-
 25 ices under this Act relating to imports into and ex-

1 ports from the United States for all overtime, night,
2 or holiday work performed by the officer or employee
3 at a rate of pay determined by the Secretary.

4 (2) REIMBURSEMENT.—

5 (A) IN GENERAL.—The Secretary may re-
6 quire a person for whom the services are per-
7 formed to reimburse the Secretary for any ex-
8 penses paid by the Secretary for the services
9 under this subsection.

10 (B) USE OF FUNDS.—All funds collected
11 under this subsection shall—

12 (i) be credited to the account that in-
13 curs the costs; and

14 (ii) remain available until expended,
15 without fiscal year limitation.

16 (d) LATE PAYMENT PENALTIES.—

17 (1) COLLECTION.—On failure by a person to
18 reimburse the Secretary in accordance with this sec-
19 tion, the Secretary may assess a late payment pen-
20 alty against the person, including interest on over-
21 due funds, as required by section 3717 of title 31,
22 United States Code.

23 (2) USE OF FUNDS.—Any late payment penalty
24 and any accrued interest shall—

1 (A) be credited to the account that incurs
2 the costs; and

3 (B) remain available until expended, with-
4 out fiscal year limitation.

5 **SEC. 13. ADMINISTRATION AND CLAIMS.**

6 (a) ADMINISTRATION.—To carry out this Act, the
7 Secretary may—

8 (1) acquire and maintain real or personal prop-
9 erty;

10 (2) employ a person;

11 (3) make a grant; and

12 (4) notwithstanding chapter 63 of title 31,
13 United States Code, enter into a contract, coopera-
14 tive agreement, memorandum of understanding, or
15 other agreement.

16 (b) TORT CLAIMS.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the Secretary may pay a tort claim, in
19 the manner authorized by the first paragraph of sec-
20 tion 2672 of title 28, United States Code, if the
21 claim arises outside the United States in connection
22 with an activity authorized under this Act.

23 (2) REQUIREMENTS.—A claim may not be al-
24 lowed under this subsection unless the claim is pre-

1 sented in writing to the Secretary not later than 2
2 years after the date on which the claim arises.

3 **SEC. 14. PENALTIES.**

4 (a) CRIMINAL PENALTIES.—Any person that know-
5 ingly violates this Act, or that knowingly forges, counter-
6 feits, or, without authority from the Secretary, uses, al-
7 ters, defaces, or destroys any certificate, permit, or other
8 document provided under this Act shall be guilty of a mis-
9 demeanor, and, on conviction, shall be fined in accordance
10 with title 18, United States Code, imprisoned not more
11 than 1 year, or both.

12 (b) CIVIL PENALTIES.—

13 (1) IN GENERAL.—Any person that violates this
14 Act, or that forges, counterfeits, or, without author-
15 ity from the Secretary, uses, alters, defaces, or de-
16 stroys any certificate, permit, or other document
17 provided under this Act may, after notice and oppor-
18 tunity for a hearing on the record, be assessed a
19 civil penalty by the Secretary that does not exceed
20 the greater of—

21 (A)(i) \$50,000 in the case of any indi-
22 vidual, except that the civil penalty may not ex-
23 ceed \$1,000 in the case of an initial violation of
24 this Act by an individual moving regulated arti-
25 cles not for monetary gain;

1 (ii) \$250,000 in the case of any other per-
2 son for each violation; and

3 (iii) \$500,000 for all violations adjudicated
4 in a single proceeding; or

5 (B) twice the gross gain or gross loss for
6 any violation or forgery, counterfeiting, or un-
7 authorized use, alteration, defacing or destruc-
8 tion of a certificate, permit, or other document
9 provided under this Act that results in the per-
10 son's deriving pecuniary gain or causing pecu-
11 niary loss to another person.

12 (2) FACTORS IN DETERMINING CIVIL PEN-
13 ALTY.—In determining the amount of a civil penalty,
14 the Secretary shall take into account the nature, cir-
15 cumstance, extent, and gravity of the violation or
16 violations and the Secretary may consider, with re-
17 spect to the violator—

18 (A) the ability to pay;

19 (B) the effect on ability to continue to do
20 business;

21 (C) any history of prior violations;

22 (D) the degree of culpability; and

23 (E) such other factors as the Secretary
24 considers to be appropriate.

1 (3) SETTLEMENT OF CIVIL PENALTIES.—The
 2 Secretary may compromise, modify, or remit, with or
 3 without conditions, any civil penalty that may be as-
 4 sessed under this subsection.

5 (4) FINALITY OF ORDERS.—

6 (A) FINAL ORDER.—The order of the Sec-
 7 retary assessing a civil penalty shall be treated
 8 as a final order reviewable under chapter 158
 9 of title 28, United States Code.

10 (B) REVIEW.—The validity of the order of
 11 the Secretary may not be reviewed in an action
 12 to collect the civil penalty.

13 (C) INTEREST.—Any civil penalty not paid
 14 in full when due under an order assessing the
 15 civil penalty shall thereafter accrue interest
 16 until paid at the rate of interest applicable to
 17 civil judgments of the courts of the United
 18 States.

19 (c) SUSPENSION OR REVOCATION OF ACCREDITA-
 20 TION.—

21 (1) IN GENERAL.—The Secretary may, after
 22 notice and opportunity for a hearing on the record,
 23 suspend or revoke the accreditation of any veteri-
 24 narian accredited under this Act that violates this
 25 Act.

1 (2) FINAL ORDER.—The order of the Secretary
2 suspending or revoking accreditation shall be treated
3 as a final order reviewable under chapter 158 of title
4 28, United States Code.

5 (3) SUMMARY SUSPENSION.—

6 (A) IN GENERAL.—Notwithstanding para-
7 graph (1), the Secretary may summarily sus-
8 pend the accreditation of a veterinarian who the
9 Secretary has reason to believe has violated this
10 Act.

11 (B) HEARINGS.—The Secretary shall pro-
12 vide the accredited veterinarian with a subse-
13 quent notice and an opportunity for a prompt
14 post-suspension hearing on the record.

15 (d) LIABILITY FOR ACTS OF AGENTS.—In the con-
16 struction and enforcement of this Act, the act, omission,
17 or failure of any officer, agent, or person acting for or
18 employed by any other person within the scope of the em-
19 ployment or office of the officer, agent, or person, shall
20 be deemed also to be the act, omission, or failure of the
21 other person.

22 (e) GUIDELINES FOR CIVIL PENALTIES.—The Sec-
23 retary shall coordinate with the Attorney General to estab-
24 lish guidelines to determine under what circumstances the
25 Secretary may issue a civil penalty or suitable notice of

1 warning in lieu of prosecution by the Attorney General of
2 a violation of this Act.

3 **SEC. 15. ENFORCEMENT.**

4 (a) COLLECTION OF INFORMATION.—

5 (1) IN GENERAL.—The Secretary may gather
6 and compile information and conduct any inspection
7 or investigation that the Secretary considers to be
8 necessary for the administration or enforcement of
9 this Act.

10 (2) SUBPOENAS.—

11 (A) IN GENERAL.—The Secretary shall
12 have power to issue a subpoena to compel the
13 attendance and testimony of any witness and
14 the production of any documentary evidence re-
15 lating to the administration or enforcement of
16 this Act or any matter under investigation in
17 connection with this Act.

18 (B) LOCATION OF PRODUCTION.—The at-
19 tendance of any witness and production of doc-
20 umentary evidence relevant to the inquiry may
21 be required from any place in the United
22 States.

23 (C) ENFORCEMENT.—

24 (i) IN GENERAL.—In case of disobe-
25 dience to a subpoena by any person, the

1 Secretary may request the Attorney Gen-
2 eral to invoke the aid of any court of the
3 United States within the jurisdiction in
4 which the investigation is conducted, or
5 where the person resides, is found, trans-
6 acts business, is licensed to do business, or
7 is incorporated, to require the attendance
8 and testimony of any witness and the pro-
9 duction of documentary evidence.

10 (ii) NONCOMPLIANCE.—In case of a
11 refusal to obey a subpoena issued to any
12 person, a court may order the person to
13 appear before the Secretary and give evi-
14 dence concerning the matter in question or
15 to produce documentary evidence.

16 (iii) CONTEMPT.—Any failure to obey
17 the order of the court may be punished by
18 the court as contempt of the court.

19 (D) COMPENSATION.—

20 (i) WITNESSES.—A witness sum-
21 moned by the Secretary under this Act
22 shall be paid the same fees and mileage
23 that are paid to a witness in a court of the
24 United States.

1 (ii) DEPOSITIONS.—A witness whose
 2 deposition is taken, and the person taking
 3 the deposition, shall be entitled to the
 4 same fees that are paid for similar services
 5 in a court of the United States.

6 (E) PROCEDURES.—

7 (i) PUBLICATION.—The Secretary
 8 shall publish procedures for the issuance of
 9 subpoenas under this section.

10 (ii) REVIEW.—The procedures shall
 11 include a requirement that subpoenas be
 12 reviewed for legal sufficiency and, to be ef-
 13 fective, be signed by the Secretary.

14 (iii) DELEGATION.—If the authority
 15 to sign a subpoena is delegated to an agen-
 16 cy other than the Office of Administrative
 17 Law Judges, the agency receiving the dele-
 18 gation shall seek review of the subpoena
 19 for legal sufficiency outside that agency.

20 (b) AUTHORITY OF ATTORNEY GENERAL.—The At-
 21 torney General may—

22 (1) prosecute, in the name of the United States,
 23 all criminal violations of this Act that are referred
 24 to the Attorney General by the Secretary or are

1 brought to the notice of the Attorney General by any
2 person;

3 (2) bring an action to enjoin the violation of or
4 to compel compliance with this Act, or to enjoin any
5 interference by any person with the Secretary in car-
6 rying out this Act, in any case in which the Sec-
7 retary has reason to believe that the person has vio-
8 lated, or is about to violate this Act or has inter-
9 fered, or is about to interfere, with the actions of the
10 Secretary; or

11 (3) bring an action for the recovery of any un-
12 paid civil penalty, funds under a reimbursable agree-
13 ment, late payment penalty, or interest assessed
14 under this Act.

15 (c) COURT JURISDICTION.—

16 (1) IN GENERAL.—The United States district
17 courts, the District Court of Guam, the District
18 Court of the Northern Mariana Islands, the District
19 Court of the Virgin Islands, the highest court of
20 American Samoa, and the United States courts of
21 the other territories and possessions are vested with
22 jurisdiction in all cases arising under this Act.

23 (2) VENUE.—Any action arising under this Act
24 may be brought, and process may be served, in the
25 judicial district where a violation or interference oc-

1 curred or is about to occur, or where the person
2 charged with the violation, interference, impending
3 violation, impending interference, or failure to pay
4 resides, is found, transacts business, is licensed to
5 do business, or is incorporated.

6 (3) EXCEPTION.—Paragraphs (1) and (2) do
7 not apply to subsections (b) and (c) of section 14.

8 **SEC. 16. REGULATIONS AND ORDERS.**

9 The Secretary may promulgate such regulations, and
10 issue such orders, as the Secretary determines necessary
11 to carry out this Act.

12 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) IN GENERAL.—There are authorized to be appro-
14 priated such sums as are necessary to carry out this Act.

15 (b) TRANSFER OF FUNDS.—

16 (1) IN GENERAL.—In connection with an emer-
17 gency under which a pest or disease of livestock
18 threatens any segment of agricultural production in
19 the United States, the Secretary may transfer from
20 other appropriations or funds available to the agen-
21 cies or corporations of the Department of Agri-
22 culture such funds as the Secretary determines are
23 necessary for the arrest, control, eradication, or pre-
24 vention of the spread of the pest or disease of live-
25 stock and for related expenses.

1 (2) AVAILABILITY.—Any funds transferred
2 under this subsection shall remain available until ex-
3 pended, without fiscal year limitation.

4 (c) USE OF FUNDS.—In carrying out this Act, the
5 Secretary may use funds made available to carry out this
6 Act for—

7 (1) printing and binding, without regard to sec-
8 tion 501 of title 44, United States Code;

9 (2) the employment of civilian nationals in for-
10 eign countries; and

11 (3) the construction and operation of research
12 laboratories, quarantine stations, and other buildings
13 and facilities for special purposes.

14 **SEC. 18. REPEALS AND CONFORMING AMENDMENTS.**

15 (a) REPEALS.—The following provisions of law are
16 repealed:

17 (1) Public Law 97–46 (7 U.S.C. 147b).

18 (2) Section 101(b) of the Act of September 21,
19 1944 (7 U.S.C. 429).

20 (3) The Act of August 28, 1950 (7 U.S.C.
21 2260).

22 (4) Section 919 of the Federal Agriculture Im-
23 provement and Reform Act of 1996 (7 U.S.C.
24 2260a).

1 (5) Section 306 of the Tariff Act of 1930 (19
2 U.S.C. 1306).

3 (6) Sections 6 through 8 and 10 of the Act of
4 August 30, 1890 (21 U.S.C. 102 through 105).

5 (7) The Act of February 2, 1903 (21 U.S.C.
6 111, 120 through 122).

7 (8) Sections 2 through 9, 11, and 13 of the Act
8 of May 29, 1884 (21 U.S.C. 112, 113, 114, 114a,
9 114a–1, 115 through 120, 130).

10 (9) The first section and sections 2, 3, and 5
11 of the Act of February 28, 1947 (21 U.S.C. 114b,
12 114c, 114d, 114d–1).

13 (10) The Act of June 16, 1948 (21 U.S.C.
14 114e, 114f).

15 (11) Public Law 87–209 (21 U.S.C. 114g,
16 114h).

17 (12) Section 2506 of the Food, Agriculture,
18 Conservation, and Trade Act of 1990 (21 U.S.C.
19 114i).

20 (13) The third and fourth provisos of the fourth
21 paragraph under the heading “BUREAU OF ANIMAL
22 INDUSTRY” of the Act of May 31, 1920 (21 U.S.C.
23 116).

1 (14) The first section and sections 2, 3, 4, and
2 6 of the Act of March 3, 1905 (21 U.S.C. 123
3 through 127).

4 (15) The first proviso under the heading “GEN-
5 ERAL EXPENSES, BUREAU OF ANIMAL INDUSTRY”
6 under the heading “BUREAU OF ANIMAL IN-
7 DUSTRY” of the Act of June 30, 1914 (21 U.S.C.
8 128).

9 (16) The fourth proviso under the heading
10 “SALARIES AND EXPENSES” under the heading
11 “ANIMAL AND PLANT HEALTH INSPECTION SERV-
12 ICE” of title I of the Agriculture, Rural Develop-
13 ment, Food and Drug Administration, and Related
14 Agencies Appropriations Act, 2001 (21 U.S.C. 129).

15 (17) The third paragraph under the heading
16 “MISCELLANEOUS” of the Act of May 26, 1910
17 (21 U.S.C. 131).

18 (18) The first section and sections 2 through 6
19 and 11 through 13 of Public Law 87–518 (21
20 U.S.C. 134 through 134h).

21 (19) Public Law 91–239 (21 U.S.C. 135
22 through 135b).

23 (20) Sections 12 through 14 of the Federal
24 Meat Inspection Act (21 U.S.C. 612 through 614).

1 (21) Chapter 39 of title 46, United States
2 Code.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 414(b) of the Plant Protection Act
5 (7 U.S.C. 7714(b)) is amended—

6 (A) in paragraph (1), by striking “, or the
7 owner’s agent,”; and

8 (B) in paragraph (2), by striking “or agent
9 of the owner” each place it appears.

10 (2) Section 423 of the Plant Protection Act (7
11 U.S.C. 7733) is amended—

12 (A) by striking subsection (b) and insert-
13 ing the following:

14 “(b) LOCATION OF PRODUCTION.—The attendance of
15 any witness and production of documentary evidence rel-
16 evant to the inquiry may be required from any place in
17 the United States.”;

18 (B) in the third sentence of subsection (e),
19 by inserting “to an agency other than the Of-
20 fice of Administrative Law Judges” after “is
21 delegated”; and

22 (C) by striking subsection (f).

23 (3) Section 11(h) of the Endangered Species
24 Act of 1973 (16 U.S.C. 1540(h)) is amended in the
25 first sentence by striking “animal quarantine laws

(21 U.S.C. 101–105, 111–135b, and 612–614)” and inserting “animal quarantine laws (as defined in section 2509(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(f))”.

(4) Section 18 of the Federal Meat Inspection Act (21 U.S.C. 618) is amended by striking “of the cattle” and all that follows through “as herein described” and inserting “of the carcasses and products of cattle, sheep, swine, goats, horses, mules, and other equines”.

(5) Section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a) is amended—

(A) in subsection (c), by inserting after paragraph (1) the following:

“(2) VETERINARY DIAGNOSTICS.—The Secretary may prescribe and collect fees to recover the costs of carrying out the provisions of the Animal Health Protection Act that relate to veterinary diagnostics.”; and

(B) in subsection (f)(1), by striking subparagraphs (B) through (O) and inserting the following:

“(B) section 9 of the Act of August 30, 1890 (21 U.S.C. 101);

1 “(C) the Animal Health Protection Act; or
2 “(D) any other Act administered by the
3 Secretary relating to plant or animal diseases
4 or pests.”.

5 (c) EFFECT ON REGULATIONS.—A regulation issued
6 under a provision of law repealed by subsection (a) shall
7 remain in effect until the Secretary issues a regulation
8 under section 16 that supersedes the earlier regulation.

○