



NEW YORK
CITY BAR

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**REPORT ON LEGISLATION BY THE
COMMITTEE ON LEGAL ISSUES PERTAINING TO ANIMALS**

New York City Introduction No. 35-2010

Sponsors: Gennaro, Crowley, Koslowitz, James, Koppell and White

A Local Law to amend the administrative code of the city of New York, in relation to the regulation of horse drawn cabs.

THIS LEGISLATION IS OPPOSED

A. Summary of Introduction No. 35-2010

Introduction No. 35-2010 (“Intro. 35”) would amend sections 17-330, 17-333, 20-380, 20-381, and 24-330 of the Administrative Code of the City of New York (“Ad Code”) to (1) require that stalls be at least 64 square feet; (2) provide horses with a furlough at least five non-consecutive weeks per year; (3) increase the minimum number of required veterinary examinations from one to two a year; (4) require that, at the time of purchase, horses be between five and twenty years of age; (5) increase the fee the industry may charge customers; (6) provide for a probationary horse-drawn carriage driver license; (7) require that the Department of Environmental Protection maintain and make available to the horses a source of water all year round; and (8) require that carriages be equipped with horse blankets in winter.

B. Analysis: The proposed reforms would have negligible impact on the horses’ working conditions and lives

We oppose Intro. 35. Unfortunately, while Intro. 35 seeks to improve some conditions under which our City’s carriage horses live and work, the legislation would not significantly promote the health, safety and well being of the carriage horses, it does not meet the best standards adopted by the state, and it may actually worsen their conditions. We believe that an outright ban of carriage horse rides is necessary due to the dangerous and harsh conditions inherent in operating carriages in congested New York City streets and keeping horses in a crowded urban environment.¹

Specifically, as explained below, we oppose Intro. 35 because (1) the legislation fails to address the most critical concerns relating to the carriage horse industry including the urban environment and long workday; (2) the proposed stable size is less than half the size

¹ For several years, the New York City Bar has urged the City Council to enact legislation to ban carriage horse rides in New York City. Our reports and testimony concerning the regulation of carriage horses in New York City are available on the New York City Bar Web site at http://www.nycbar.org/pdf/report/Carriage%20Horses%20Ban%201_3.pdf; <http://www.nycbar.org/pdf/report/Comment653a.pdf>; <http://www.nycbar.org/pdf/report/TestimonyCarriageBill.pdf>.

recommended by the New York State Department of Agriculture and Markets; (3) five weeks of furlough does not meet a horse's need for regular turnout in a pasture; (4) the proposed amendment does not ensure that horses are not worked after they are 20 years old; and (5) the provision relating to water lacks necessary specificity and imposes the burden to pay for water on City taxpayers instead of the horse owners.

1. *The legislation fails to address the most critical concerns relating to the carriage horse industry including the urban environment and long workday*

In 1989, the City Council enacted the Ad Code provisions relating to carriage horses in order to “assure the health and safety of motorists and pedestrians” and “insure the proper care and handling of the horses and to further safeguard the horses and the public from the hazards of traffic.”² Since then, the problem of traffic congestion has increased in its severity—more than 800,000 cars enter Manhattan beneath 60th Street each weekday.³ Despite the increase in traffic, Intro. 35 does nothing to address the health and safety of motorists and pedestrians and safeguard the horses and public from traffic hazards.

There have been numerous documented traffic accidents involving carriage horses. For example, on September 19, 2009, a yellow cab crashed into a horse-drawn carriage near Central Park sending two people to the hospital.⁴ On August 31 2008, two horses pulling a wedding buggy in Brooklyn became startled and proceeded to run wildly through the street, propelling the driver onto the windshield of a parked vehicle.⁵ On September 14, 2007, a spooked horse reared up and turned its carriage over, charging a tree and another carriage.⁶ This sent a second horse running against traffic and plowing into a Mercedes-Benz. The horse died on the pavement near Center Drive. On July 3, 2007, a spooked horse flipped over his carriage and collided with a taxi on Central Park South.⁷ A motorcyclist and a bike were hit with the carriage. One person was hospitalized and the horse suffered several gashes on its right hind leg. On June 2, 2007, a spooked horse galloped into traffic still attached to his carriage.⁸ An SUV struck the horse at 54th Street and Seventh Avenue and the horse fell to the pavement. On April 13, 2007, a taxi crashed into a carriage while a horse was working.⁹ In addition, a documentary film shows horses being spooked by city noises and weaving in and out of traffic nearly missing cars, and horse-carriage drivers reading books while driving carriages carrying passengers through City streets.¹⁰

² See Local Law No. 89-1989 § 1

³ Regional Plan Association, Congestion Pricing in New York City: Making the Case, available at <http://www.rpa.org/pdf/Spotlight40.pdf>.

⁴ John Doyle, et al., *Horse Unhurt in Central Park Cab Crash*, NY POST (Sept. 19, 2009), available at http://www.nypost.com/p/news/local/manhattan/item_jT1BHoqh51xdrhYiWncuWN (last visited Feb. 20, 2010).

⁵ Reuven Fenton, *2 Horses Go Buggy*, NY POST (Sept. 1, 2008).

⁶ Kerry Burke and Michael White, *Spooked by Drum, Carriage mare Breaks Her Leg in a Wild Dash and Dies. Horse Horror at the Park*, NY DAILY NEWS (Sept. 15, 2007).

⁷ Erin Calabrese and Dan Kadison, *Horse and Taxi in Tale of Whoa*, NY POST (July 5, 2007).

⁸ Coalition to Ban Horse Drawn Carriages Web site, <http://www.banhdc.org/archives/ch-acc-20070602.html>.

⁹ *Id.*, <http://www.banhdc.org/archives/ch-acc-20070413.html>.

¹⁰ Trailer for BLINDERS: THE TRUTH BEHIND THE TRADITION (McMoss Productions 2007), available at <http://www.blindersthemovie.com/trailers/>.

2. *The stable size is less than half the size recommended by the New York State Department of Agriculture and Markets*

Intro. 35 provides, “Standing stalls in stables shall be sixty four square feet or larger, with a minimum width of seven feet, and shall be configured to permit a horse to turn around and safely lay down within the stall.” This is less than half the stable size required by the New York State Department of Agriculture and Markets Horse Health Assurance Program. (“NYSHHAP”). NYSHHAP is a voluntary certification program that requires compliance with best practices developed by equine veterinarians and staff of the Department of Agriculture and Markets’ Division of Animal Industry.¹¹ Roughly 75 public and private entities are certified by NYSHHAP, including the New York City Police Department Mounted Units A, B, D, E, and F.¹² The NYSHHAP Standards require that stalls be about 12 feet by 12 feet (144 square feet) for mid-sized horses and 14 feet by 14 feet (196 square feet) for draft horses and large warmbloods.¹³

3. *Five weeks of furlough does not meet a horse’s need for regular turnout in a pasture*

Intro. 35 provides, “Carriage horses shall receive no less than five non-consecutive weeks of vacation or furlough per year at a horse stable facility which allows daily access to paddock or pasture turnout. Proof of such vacation or furlough shall be provided upon request to the department of health and/or the ASPCA.” This requirement does not meet a horse’s need for regular turnout time in a safe pasture. “Turnout” means the practice of turning horses loose in a pasture, arena or corral for all or part of the day.¹⁴

The NYSHHAP Standards assume that horses will be provided with regular turnout time in a safe pasture of adequate size.¹⁵ Pasture facilities must be safe and appropriate and vegetation must be properly maintained.¹⁶ Regular turnout in a safe pasture is necessary for a horse’s health and well being.¹⁷ In at least one other jurisdiction, the law requires that horses be provided with turnout of at least two hours per day.¹⁸ The proposed amendment falls short of meeting this essential requirement and allows only a few weeks of rest per year during which there is no requirement that a horse be provided with turnout time.

In addition, the furlough requirement is imprecise and could be easily exploited. There is nothing to ensure that a furloughed horse is not worked in another industry and, for example, a

¹¹ The best practices are contained in the NYSHHAP Standards and Certification Manual (“referred to hereinafter as “NYSHHAP Standards”), available upon request from NYSHHAP Coordinator Dr. Lyda W. Denney at lyda.denney@agmkt.state.ny.us.

¹² Certified Members of the NYSHHAP at <http://www.agmkt.state.ny.us/NYSHHAP/certmembers.html>.

¹³ NYSHHAP Standards at 34.

¹⁴ Dictionary of Horse Terms, Horse and Horse Information Web page at <http://www.horses-and-horse-information.com/horsedictionary.shtml#t>; see also New Jersey Administrative Code § 2:76-2A.10.

¹⁵ NYSHHAP Standards at 43; see also Lyda W. Denney, NYSHHAP Equine “Fast Facts” Series 5 (May 2009), at <http://www.agmkt.state.ny.us/NYSHHAP/infodocs/FastFact2009.pdf> (last visited Feb. 20, 2010).

¹⁶ NYSHHAP Standards at 43.

¹⁷ E.g., Nancy S. Loving, DVM, *Colic: Updates and Prevention*, TheHorse.com (Oct. 7, 2007) (daily turnout is the best strategy for avoiding colic), at <http://www.thehorse.com/ViewArticle.aspx?ID=10551> (last visited Feb. 20, 2010); Carolyn Heinze, *The Grass is Not Always Greener*, TheHorse.com (Mar. 1, 2004) (turnout helps horses avoid health problems and socialize), at <http://www.thehorse.com/ViewArticle.aspx?ID=1217> (last visited Feb. 20, 2010).

¹⁸ Irene Stamatelakys, *Swiss Animal Protection Law Includes Horse Management Guidelines*, Horse.com (Oct. 24, 2008), at <http://www.thehorse.com/ViewArticle.aspx?ID=12959> (last visited Feb. 20, 2010).

carriage horse could be put to work in a farm on Pennsylvania. Also a horse may be furloughed in a stable that lacks NYSHHAP certification, which could expose the horse to the risk of disease or mistreatment.

4. *The proposed amendment does not ensure that horses are not worked after they are 20 years old*

Intro. 35 provides, “Carriage horses shall not be younger than five years of age nor older than 20 years of age at the time of purchase” This provision is misguided in its focus on the age at purchase of the carriage horse instead of on the age during which the horse’s services are utilized in association with carriage horse operations. The proposed amendment does not ensure that horses are retired when they reach the age of 20 or earlier if necessary to ensure the horse’s health and well being. Opinions on when a horse is “old” and ready for retirement vary, but most consider horses to be senior citizens when they reach their 20th birthday or earlier.¹⁹

5. *The provision relating to water lacks necessary specificity and imposes the burden to pay for water on City taxpayers instead of the horse owners*

The City Comptroller audit observed that the horses work in less than optimal conditions and that there are no water spigots in the areas in which carriages wait to pick up passengers, making it difficult to obtain drinking water for the horses.²⁰ The fact that horses do not have adequate access to water during their long shifts is particularly significant because working horses need access to plenty of clean fresh water at all times to maintain health. According to NYSHHAP, an average horse consumes five to 15 gallons of water a day, which is equivalent to approximately a quarter- to a half-gallon of water per hour.²¹ Diet, temperature, and exercise can influence water maintenance needs.

The proposed legislation makes an effort to improve the situation but does not adequately address the need for water. It requires the Department of Environmental Protection (“DEP”) to maintain and make available to the horses a source of water all year round. However, the legislation does not seem to require the carriage-horse owners and operators to allow horses access and adequate time to drink water. Also, it does not address the well-documented fact that the troughs are frequently filled with trash and other debris and the fact that the water in troughs outside freezes in winter and the horses cannot drink water in a solid state. Furthermore, it imposes the duty to pay for water on taxpayers instead of the persons profiting from the business.

C. Summary

For these reasons, we oppose Introduction No. 35-2010.

April 2010

¹⁹ Carolyn Heinze, *Ready for Retirement?*, TheHorse.com (Apr. 1, 2004), at <http://www.thehorse.com/ViewArticle.aspx?ID=5119> (last visited Feb. 20, 2010).

²⁰ City of New York, Office of the Comptroller, Audit Report on the Licensing and Oversight of the Carriage-Horse Industry by the Departments of Health and Mental Hygiene and Consumer Affairs (June 27, 2007).

²¹ NYSHHAP, Equine Water Needs <http://www.agmkt.state.ny.us/nyshhap/infodocs/Fast%20Facts%20Equine%20Water%20Needs.pdf> (last visited Feb. 20, 2010).