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**REPORT ON LEGISLATION
BY THE ANIMAL LAW COMMITTEE**

H.R. 961

Rep. Schakowsky

To prevent human health threats posed by the consumption of equines raised in the United States.

Safeguard American Food Exports (SAFE) Act

THIS LEGISLATION IS APPROVED

I. SUMMARY OF THE PROPOSED LEGISLATION

The proposed legislation would amend Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 331) to prohibit the sale or transport of equines or equine products in interstate or foreign commerce for purposes of human consumption.¹

The bill is intended to address the animal welfare concerns associated with the transport and slaughter of horses for human consumption and public health concerns arising from the human consumption of horsemeat.

II. JUSTIFICATION

a. Animal Welfare Concerns

The United States is a major source of horses destined for slaughter and human consumption abroad. Prior to 2006, horse slaughter for human consumption took place largely in this country, when domestic slaughterhouses operated legally, and a relatively small number of horses were shipped for slaughter to neighboring countries.² Since 2007, when slaughter of horses in the U.S. for human consumption was effectively banned, thousands of American horses have been transported to slaughterhouses in Mexico and Canada.³ Domestic horses (including

¹ The full text of the legislation is available at <https://www.congress.gov/116/bills/hr961/BILLS-116hr961ih.pdf>. (All websites last visited March 13, 2019.) This legislation is intended only to ban the sale and transport of horsemeat for human consumption. It does not prohibit the sale of horsemeat for other purposes, *e.g.*, to provide horsemeat for large carnivores in zoos.

² From 2002 to 2006, the annual exports to Mexico and Canada averaged approximately 26,000. From 2008 to 2015, exports ranged from 98,503 to 166,572 each year. *See* Animal Welfare Institute, Compilation of USDA Horse Slaughter Statistics, 1989-2013, <https://awionline.org/content/horse-slaughter-statistics>.

³ *Id.*

pet horses, work horses, racehorses, carriage horses and wild horses) are sent to slaughter when they are deemed no longer valuable.⁴

In order to reach slaughterhouses in Canada and Mexico, horses are often shipped farther than if they were slaughtered domestically, increasing the likelihood of accident and inhumane treatment.⁵ They are frequently shipped for long periods and hundreds of miles in crowded trailers without food, water or rest.⁶ Upon arrival across the border, many are sick and injured⁷ and some are dead,⁸ and they are subjected to cruel slaughtering practices.⁹ The horsemeat products are then exported to countries (or consumed in Canada) where eating horsemeat is a common practice (unlike in the United States).¹⁰

Some have argued that resuming horse slaughter in the United States is in the best interests of horses, because domestic slaughter could mitigate the inhumane conditions that horses experience while traveling long distances to be slaughtered and the poor conditions at

⁴ See Natalie Anderson, *Protecting Equine Welfare and International Consumers of Horse Meat: A Proposal for the Renewal of Horse Slaughter in the United States*, SAN DIEGO INT’ L. J. 125, 130 (Fall 2015), <https://digital.sandiego.edu/cgi/viewcontent.cgi?article=1000&context=ilj>.

⁵ U.S. Department of Agriculture, Office of Inspector General, Audit Report 33601-2-KC, *Animal and Plant Health Inspection Service Administration of the Horse Protection Program and the Slaughter Horse Transport Program*, September 2010, at 8, <http://www.usda.gov/oig/webdocs/33601-02-KC.pdf>.

⁶ Under federal regulations, horses may be transported for up to 28 consecutive hours before being allowed a 6-hour rest. 9 C.F.R. § 88.4(b)(3); see also R.C. Roy & M. Cockram, *Patterns and Durations of Journeys by Horses Transported from the USA to Canada for Slaughter*, 56 CAN. VET. 581 (Jun. 2015) (a significant number of horses may have been transported for longer periods than allowed by law; long journeys increase horses risk of injury, dehydration, and fatigue), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4431154/pdf/cvj_06_581.pdf; J. Daniel Ross, *Failed Prosecution in US Underscores Uphill Battle to End Horse Slaughter*, THE GUARDIAN (Mar. 30, 2016), <https://www.theguardian.com/us-news/2016/mar/30/horse-slaughter-case-california-law-proposition-6> (“Frequently on long journeys to slaughter, horses were crammed tightly without food and water into trucks ill-equipped to haul horses great distances. Many were found fallen and trampled during transit, often resulting in terrible injuries including broken bones. Some died even before they reached the slaughter plants.”).

⁷ E.g., ANIMALS’ ANGELS, ANIMALS’ ANGELS HORSE SLAUGHTER INVESTIGATIONS 2007-2015 SHORT PAPER, <http://www.animalsangels.org/files/images/stories/pdf/Animals%27%20Angels%20horse%20slaughter%20compilation%20report%20-%20short%20paper-edited.pdf>.

⁸ E.g., Sasha von Oldershausen, *The Business of Burying Horses*, TEXAS OBSERVER (May 9, 2016), <https://www.texasobserver.org/business-burying-horses-presidio> (In 2015, over 300 horses died on route to Presidio, Mexico, or arrived so sick or injured that they had to be killed.).

⁹ E.g., ASPCA, *Horse Slaughter Is Not Euthanasia* (“The methods used to kill horses rarely result in quick, painless deaths for these animals and sometimes they even remain conscious during dismemberment.”), <https://www.aspc.org/animal-cruelty/horse-slaughter>; *Mexican Horse Meat Banned by EU*, JOURNAL OF THE AMERICAN VETERINARY MEDICAL ASSOCIATION (Feb. 15, 2015), <https://www.avma.org/News/JAVMANews/Pages/150215r.aspx> (“[I]nsufficient control measures were in place [at Mexican horse slaughterhouses] to ensure that stunning was done in an effective manner.”).

¹⁰ *Mexican Horse Meat a Gourmet Product*, MEXICO NEWS DAILY (Nov. 9, 2017), <https://mexiconewsdaily.com/news/mexican-horse-meat-a-gourmet-product>. See also Kevin Pang, *How It Became Impossible for Americans to Buy Horsemeat*, THE TAKEOUT (Sept. 6, 2018), <https://thetakeout.com/how-it-became-impossible-for-americans-to-buy-horse-mea-1798263202> (referring to countries where horsemeat is consumed).

foreign slaughter plants.¹¹ Proponents of domestic horse slaughter also argue that resuming horse slaughter in the U.S. could provide an option to horse owners who can no longer afford to care for their horses.¹² And they argue that allowing domestic slaughter of wild horses could reduce taxpayers' costs associated with managing wild herds.¹³

Based on the widely-reported inhumane conditions in slaughter plants in the United States¹⁴ and during livestock's transport to slaughter¹⁵ in domestic slaughterhouses, as well as the lack of meaningful oversight of slaughterhouses by the USDA,¹⁶ domestic slaughter is not a realistic way to protect horses from inhumane transport and slaughter conditions. The only realistic way to guarantee that horses are protected from the inhumane conditions in slaughterhouses and in transport to slaughterhouses is to ban their slaughter altogether.

b. Potential Health Concerns

In addition to the animal welfare concerns associated with the transport and slaughter of horses for human consumption, horsemeat may present a public health risk. The bill's findings note that "unlike cows, pigs, and other domesticated species, horses and other members of the equidae family are not raised for the purpose of human consumption."¹⁷ Rather, most horses in

¹¹ E.g., Natalie Anderson, *Protecting Equine Welfare and International Consumers of Horse Meat: A Proposal for the Renewal of Horse Slaughter in the United States*, SAN DIEGO INT'L L. J. 125 (Fall 2015), <https://digital.sandiego.edu/cgi/viewcontent.cgi?article=1000&context=ilj>.

¹² *Id.* at 133.

¹³ Dan Ross, *Critics Say 'Whoa' to Federal Moves to Rein in Wild Horses*, FAIRWARNING REPORTS (Sept. 6, 2018), <https://www.fairwarning.org/2018/09/wild-horses-blm-grazing-livestock>.

¹⁴ See e.g., Joby Warrick, *They Die Piece by Piece*, WASHINGTON POST (Apr. 10, 2001), <http://www.abolitionistapproach.com/wp-content/uploads/2014/06/Warrick-They-Die-Piece-by-Piece-2001.pdf> (alleging widespread repeated violations of the Humane Slaughter Act, including that "the government took no action against a Texas beef company that was cited 22 times in 1998 for violations that include chopping hooves off live cattle"); see also Statement of Senator Robert Byrd, 147 Cong. Rec. S7310 (daily ed. July 9, 2001), <https://www.gpo.gov/fdsys/pkg/CREC-2001-07-09/html/CREC-2001-07-09-pt1-PgS7310.htm> ("The law clearly requires that these poor creatures be stunned and rendered insensitive to pain before this process [i.e., by which they are cut, skinned and scalded] begins. Federal law is being ignored. Animal cruelty abounds. It is sickening. It is infuriating. Barbaric treatment of helpless, defenseless creatures must not be tolerated even if these animals are being raised for food – and even more so, more so.").

¹⁵ E.g., HSUS, AN HSUS REPORT: HUMAN HEALTH IMPLICATIONS OF LONG-DISTANCE LIVE FARM ANIMAL TRANSPORT 1 (Farmed animals in the United States are transported an average of 1,000 miles prior to slaughter.), http://www.humanesociety.org/assets/pdfs/farm/pubhealth_transport.pdf. See also United States Government Accountability Office, Report to Congressional Committees, *Horse Welfare: Action Needed to Address Unintended Consequences from Cessation of Domestic Slaughter*, GAO 11-228, at 59-60 (June 2011), <http://www.gao.gov/new.items/d11228.pdf>.

¹⁶ See, e.g., Bruce Friedrich, *When the Regulators Refuse to Regulate: Pervasive USDA Underenforcement of the Humane Slaughter Act*, 104 GEORGETOWN L.J. 197, 204-07 (2015), available at <https://georgetownlawjournal.org/articles/28/when-regulators-refuse-to/pdf>; Baylen J. Linnekin, *America's Slaughterhouse Mess*, NEW FOOD ECONOMY (May 2, 2017), <https://newfoodeconomy.org/americas-slaughterhouse-mess>.

¹⁷ H.R. 961 (116th Congress), <https://www.congress.gov/116/bills/hr961/BILLS-116hr961ih.pdf>.

the United States are raised as racing thoroughbreds, riding horses, work horses, carriage horses, and companion animals.¹⁸ Some horses, particularly race horses, are commonly treated with a range of drugs to increase speed and endurance and to suppress or mask their natural reactions to the severe strain of racing and other labor.¹⁹ Drugs administered to horses include phenylbutazone, acepromazine, boldenone undecylenate, omeprazole, ketoprofen, xylazine, hyaluronic acid, nitrofurazone, polysulfated glycosaminoglycan, clenbuterol, tolazoline, and ponazuril, which are not approved for use in horses intended for human consumption.²⁰

¹⁸ Nat'l Research Council, *Workforce Needs in Veterinary Medicine* 46 (2011), <https://www.nap.edu/read/13413/chapter/7>. In addition to horses raised by humans, there are roughly 82,000 wild horses and burros roaming lands under the jurisdiction of the Bureau of Land Management in the west. U.S. Bureau of Land Management, *Wild Horse and Burro On-Range Population Estimates*, <https://www.blm.gov/programs/wild-horse-and-burro/about/data/population-estimates>.

¹⁹ Bradley S. Friedman, *Oats, Water, Hay, and Everything Else: The Regulation of Anabolic Steroids in Thoroughbred Horse Racing*, 16 *ANIMAL LAW* 123, 126 (2009), https://www.animallaw.info/sites/default/files/lralvol16_p123.PDF. See also Christopher A. Barbarisi, *Illinois State Racing Board Rule Which Provides for Warrantless Searches of Racing Licensees Is Constitutional as Applied to the Search of a Jockey's Automobile – LeRoy v. Illinois Racing Board*, 39 F.3d 711 (7th Cir. 1994), 6 *SETON HALL J. SPORT L.* 223, 226-27 (1996) (listing four categories of commonly used drugs).

²⁰ H.R. 961 § 3 (116th Congress). The twelve aforementioned drugs and medications are administered for a variety of purposes; they are listed in the legislative findings and illustrate the dangers to human health that are presented, described briefly as follows:

- Phenylbutazone: Pain killer and performance enhancing drug, commonly administered to racing thoroughbreds;
- Acepromazine: Tranquilizer;
- Boldenone undecylenate: For improvement of weight, haircoat, or general physical condition of debilitated horses (21 C.F.R. § 522.204);
- Omeprazole: Treatment of ulcers (21 C.F.R. § 520.1615);
- Ketoprofen: “For alleviation of inflammation and pain associated with musculoskeletal disorders in horses” (21 C.F.R. § 522.1225);
- Xylazine: “To produce sedation, as an analgesic, and as a preanesthetic to local or general anesthesia” (21 C.F.R. § 522.2474);
- Hyaluronic acid: Treatment of joint dysfunctions, particularly for horses in competition and heavy work, and for conditions associated with equine osteoarthritis;
- Nitrofurazone: “For prevention or treatment of surface bacterial infections of wounds, burns, and cutaneous ulcers of dogs, cats, or horses” (21 C.F.R. § 524.1580a);
- Polysulfated glycosaminoglycan: Joint treatment (21 C.F.R. § 522.1850);
- Clenbuterol: Treatment of allergic respiratory conditions; prohibited in the United States and the European Union for food-producing animals;
- Tolazoline: Used in veterinary medicine to reverse xylazine-induced sedation (*see* “xylazine” above); and
- Ponazuril: “For treatment of [the parasitic infection] equine protozoal myeloencephalitis” (21 C.F.R. § 520.1855).

Accordingly, U.S. horsemeat can be adulterated with these drugs.²¹ But there is disagreement whether the amounts of such drugs in horsemeat poses a significant health risk and some claim that the legislative findings overstate the risks.²²

III. CONCLUSION

For the above reasons, the Committee approves the proposed legislation.

Committee on Animal Law
Christopher Wlach, Chair

Revised March 2019

²¹ See 21 C.F.R. Part 520 (“Animal Drugs, Feeds, and Related Products”). Some of the drugs and medications in this section of the C.F.R. provide warnings that they are not to be used in horses intended for human consumption.

²² E.g., Robin McKie, *Horsemeat Does Carry a Health Risk, but It’s Incredibly Small*, THE OBSERVER (Feb. 9, 2013), <https://www.theguardian.com/world/2013/feb/09/horsemeat-in-ready-meals-health-risk>; Vickery Eckhoff, *How Safe Is That Horsemeat*, FORBES (Jun. 18, 2012), <https://www.forbes.com/sites/vickeryeckhoff/2012/06/18/how-safe-is-that-horse-meat/#226ceede1c77>.