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1st Session }

SENATE

{ REPORT  
No. 94-580

ANIMAL WELFARE AMENDMENTS OF 1975

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REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 1941

TO INCREASE THE PROTECTION AFFORDED ANIMALS IN  
TRANSIT AND TO ASSURE THE HUMANE TREATMENT OF  
ANIMALS, AND FOR OTHER PURPOSES



DECEMBER 18 (legislative day, DECEMBER 15), 1975.—Ordered to be printed

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## ANIMAL WELFARE AMENDMENTS OF 1975

DECEMBER 18 (legislative day, DECEMBER 15), 1975.—Ordered to be printed

Mr. WEICKER, from the Committee on Commerce,  
submitted the following

### REPORT

[To accompany S. 1941]

The Committee on Commerce, to which was referred the bill (S. 1941) to increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes, having considered the same, reports favorably thereon with an amendment recommends that the bill as amended do pass.

#### PURPOSE AND SUMMARY

S. 1941, the Animal Welfare Amendments of 1975, amends the Federal Laboratory Animal Welfare Act of 1966 (as amended by the Animal Welfare Act Amendments of 1970) to authorize the Secretary of Agriculture to regulate the transportation of animals in commerce. The bill brings under the purview of the act common carriers, intermediate handlers, pet shops and other persons engaged in the transportation of animals and which are currently exempted from regulations insuring the humane treatment of animals shipped in interstate commerce.

The bill requires the Secretary of Agriculture to establish standards designed to assure the safe transportation of all animals against disease, injury, and death. These standards must include, but need not be limited to, minimum requirements with respect to containers, feed, water, rest, ventilation, temperature, handling, veterinary care, and other factors necessary for assuring humane treatment to animals in transportation.

S. 1941 permits the Secretary to require that prior to shipment, certain animals be examined by an accredited veterinarian to insure that they are free of infectious disease or physical abnormalities. C.O.D. shipment of animals is prohibited unless the consignor guarantees the payment of transportation costs and any costs incurred by the carrier for care of the animal.

S. 1941 would also require the Secretary of Agriculture to consult with the Secretary of Transportation, the Civil Aeronautics Board

(CAB), the Federal Aviation Administration (FAA), the Interstate Commerce Commission (ICC), and the Federal Maritime Commission (FMC) prior to issuing standards under the Act. Regulatory agencies involved with transporting animals, the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, are further authorized in the bill to assist the Secretary of Agriculture in implementation of the Act. Any proposed standards affecting flight safety requirements may be disapproved by the Administrator of the Federal Aviation Administration within 30 days after consultation with the Secretary of Agriculture.

To assist the Secretary in enforcing provisions of the Act, the bill authorizes U.S. attorneys to prosecute criminal violations of the Act. The bill also authorizes the assessment of a civil penalty not to exceed \$2,000 against those persons who, after notice and an opportunity for a hearing, the Secretary finds to be in violation of provisions of the Act.

Finally, S. 1941 provides a \$4 million annual authorization through fiscal year 1978 for the enforcement and inspection responsibilities of the Secretary of Agriculture to carry out provisions of this Act.

#### BACKGROUND AND NEED

With the passage of the Federal Laboratory Animal Welfare Act of 1966, as amended by the Animal Welfare Act Amendments of 1970, Congress provided Federal statutory authority to insure the humane treatment of animals.

The 1966 Act (Public Law 89-544) empowered the Secretary of Agriculture to establish humane standards for the treatment of animals used for research and experimentation while in scientific institutions, on the premises of animal dealers, or in transit.

In 1970 the Congress passed the Animal Welfare Act Amendments (Public Law 91-579) which amended the 1966 Act to include non-laboratory animals transported, bought, or sold for "teaching purposes or for use as pets," thereby bringing exhibitors (circuses, zoos and others) and wholesale pet dealers under the Act's regulations.

These Acts for the first time made the Federal Government the primary vehicle for providing for the humane treatment of research animals and pets. A 1973 report issued by the House Government Operations Special Studies Subcommittee, entitled "Problems in Air Shipment of Domestic Animals," (Report No. 93-746) indicated that since enactment of these laws, the U.S. Department of Agriculture has licensed approximately 3,000 research facilities, 4,000 animal breeders and 500 exhibitors.

However, the 1966 Act and the 1970 amendments did not give the Secretary similar authority to regulate the treatment of animals shipped in commerce by common carriers. In recent years, as the number of animals shipped has increased, the number of deaths and injuries to such animals has increased as well. It was in response to this situation that a number of congressional committees have studied this issue in hearings over the past four years. At each of these hearings witnesses representing a wide range of interests, including air carriers, pet owners, humane societies, and medical research societies discussed problems associated with the air transportation of animals.

Among these are: flimsy or otherwise inadequate shipping crates; lack of temperature, ventilation, and air pressure controls in cargo compartments of planes where animals are carried; lack of adequate care at airport terminal facilities; lack of cargo handling guidelines which specify that animals should be given priority treatment; and inadequate health certificates which do not insure that animals carrying infectious diseases are not shipped with other healthy animals.

While three Government agencies, the Federal Aviation Administration, the Civil Aeronautics Board, and the Department of Agriculture, have an interest in this matter, none currently has both the authority and the expertise to deal with these problems. Consequently, no single agency has taken the lead in an effort to insure the humane treatment of animals in transit.

The Federal Aviation Administration is concerned primarily with the safety of the airplane, its passengers and cargo. Thus while the FAA would have the authority to promulgate regulations pertaining to air pressure, temperature, ventilation, and other aspects of the airplane's environment in order to assure the safety of animals, it does not have the expertise to determine what minimum requirements in these areas would be necessary to sustain animals.

The primary interest of the Civil Aeronautics Board in the air transportation of animals is an economic one. The Board is vested with authority over air carrier tariffs, which must contain just and reasonable rates, rules, regulations, and practices observed in carriage. While some have argued that the Board has the authority to require air carriers to establish standards for the humane treatment of animals, this is far from clear. Furthermore, even if it were determined that the Board possesses such authority, like the FAA, it has no expertise in this area, nor does it have the capability to enforce standards it may promulgate. The Board's lack of expertise has been pointed up during a formal investigatory hearing which it recently concluded, designated as Docket 26310, concerning rules and practices relating to the acceptance and carriage of animals in domestic air transportation.

The Department of Agriculture, on the other hand, has both the expertise and the capacity to promulgate and enforce such standards, although it does not presently have the authority to do so. Thus, it would seem that the present loophole in the Federal Government's ability to regulate the treatment of animals in transit could most easily be closed by simply extending the provisions of the Animal Welfare Act of 1970 to include among the Secretary's regulatory authorities the promulgation of standards for the humane treatment of animals by common carriers and other intermediate handlers. This is the approach taken by S. 1941.

At the November 21 hearing held by the Subcommittee on the Environment on S. 1941, the Department of Agriculture spokesman suggested that other alternatives be explored before the Congress enacts legislation dealing with the humane transportation of animals. Three alternatives were suggested at the hearing; (1) reliance on voluntary cooperation among those involved in animal transportation; (2) reliance upon recommendations provided by the Interagency Committee on Animal Transportation; and (3) reliance on the results of recently completed CAB hearings on rules and practices relating to the carriage of live animals in domestic air freight transportation.

The record indicates that while these alternatives are desirable to supplement legislation, they alone are not sufficient as a substitute for law. For the last 15 years the National Council on Animal Transportation, composed of representatives of the airlines, medical research societies, humane groups and others, has recommended the adoption of some of the same standards of animal care which are provided for in S. 1941, but which have not yet been provided for by carriers. The Interagency Committee, composed of representatives of the CAB, FAA, and Department of Agriculture, has met only once since its formation in 1974. Finally, the Civil Aeronautics Board has endorsed legislation such as S. 1941 as being the only method in which the humane treatment of animals in transit can be assured.

For these reasons, the committee believes legislation to amend the 1966 Act is imperative, and therefore has reported favorably S. 1941, with amendments.

#### SECTION-BY-SECTION ANALYSIS

*Section 1.*—provides that the short title of the bill shall be the “Animal Welfare Amendments of 1975”.

*Section 2.*—provides that the Federal Laboratory Animal Welfare Act (7 U.S.C., §§ 2131–2155) will be known as the Animal Welfare Act. This section also expresses the finding of Congress that the regulation of the animals and activities prescribed in the statute is necessary to prevent and eliminate burdens on interstate and foreign commerce, because Congress finds the activities to either be in or substantially affecting such commerce in order to assure the humane treatment of animals during transportation in commerce.

*Section 3.*—amends 7 U.S.C. 2132(c) to define the term “commerce” as between a State and any place outside of such State or which affects trade, traffic, transportation or other commerce as between a State and any place outside of such State.

In addition section 3(1) repeals section 2(d) of the Federal Laboratory Animal Welfare Act (7 U.S.C. 2132(d)) and it is replaced by a definition of the term “State” to mean a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

Section 3(3) expands the definition of “animals” under 7 U.S.C. 2132(g) to include birds and horses used for experimental or exhibition purposes or used as a pet. With respect to dogs, the term is expanded to include a dog used for hunting, security, or breeding purposes.

Section 3(4) expands the definition of “dealer” under 7 U.S.C. 2132(f) to include any person who advertises for sale, and/or sells in interstate commerce.

Section 3(6) adds to 7 U.S.C. 2131 a new subsection (i). The new subsection defines “carrier” as one subject to regulation by the Interstate Commerce Commission, the Civil Aeronautics Board, or the Federal Maritime Commission or engaged in transporting animals as designated by the Secretary of Transportation.

*Section 4.*—amends 7 U.S.C. 2133 to include terminal facilities within that class of facilities used by a dealer or exhibitor which must comply with standards before they are licensed to sell or transport animals.

*Section 5.*—amends 7 U.S.C. 2134, 2141, and 2142 to change “affecting commerce” to “in commerce”.

*Section 6.*—adds carriers to those required to register under 7 U.S.C. 2136.

*Section 7.*—amends 7 U.S.C. 2139 to include carriers to the lists of institutions, and licensees defining coverage of employee-agents and institution-principals under the statute.

*Section 8.*—removes the requirement in 7 U.S.C. 2140 that records be kept on forms supplied by the Secretary of Agriculture. It adds to this section the requirement that carriers keep and retain such records as the Secretary may prescribe pertaining to the transporting, receiving, handling and delivering of animals. Section 8 also provides that when such records are already required by other federal agencies, any additional record-keeping requirements be approved by such agencies. This is meant to prevent duplication in record-keeping requirements.

*Section 9.*—changes the title of 7 U.S.C. 2143 to “Humane Standards for Animals” by removing the words “by Dealers, Research Facilities, and Exhibitors.” In addition, coverage of section 2143 is extended to any facility used by a person licensed or registered under the statute. Two new subsections, (b) and (c), are added to section 2143. Subsection (b) requires the Secretary of Agriculture to promulgate standards applicable to all carriers for animal transportation (and attendant care and handling) that is consigned. Standards are required to be issued for, but not restricted to, containers, feed, water, rest, ventilation, temperature, handling, veterinary care and “other factors—relevant to the humane treatment of animals in the course of their transportation.” The standards should be designed to protect animals against disease, injury, and death. The standards may include a requirement that animals designated by the Secretary should be accompanied by an accredited (as defined by the Secretary) veterinarian’s certificate attesting to the fact the animal appeared free of any infectious disease or physical abnormality. The certificate would be issued at such time interval and retained in accordance with such regulations as the Secretary may issue.

The new subsection (c) forbids handlers and carriers from transporting animals with the cost either of the animal or the transportation to be collected on delivery, unless the co-signor guarantees in writing the transportation charges including both the return transportation fee and the out-of-pocket expenses for care, feeding, and storage of live animals. It will allow carriers to return unclaimed animals after a period of 24 hours.

*Section 10.*—amends 7 U.S.C. 2145 to require the Secretary of Agriculture to consult with the Secretary of Transportation, the Administrator of the Federal Aviation Administration, the Chairman of the Civil Aeronautics Board, the Chairman of the Interstate Commerce Commission, and the Chairman of the Federal Maritime Commission before promulgating any standard governing transportation of ani-

imals in commerce. This section gives the Administrator of the Federal Aviation Administration the authority to disapprove any standard if he notifies the Secretary of Agriculture within 30 days after consultation that changes are necessary in the interest of flight safety. The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission are authorized to implement any determination by the Secretary of Agriculture regarding a person subject to such agencies respective regulation.

*Section 11.*—amends 7 U.S.C. 2146 by extending the Secretary's authority to inspect facilities of carriers, and to destroy any animal which is held by a carrier and which is suffering as a result of such carrier's violation of provisions of this Act. A new provision is added to section 2146, making it the duty of U.S. attorneys to prosecute criminal violators and to initiate civil actions to recover civil penalties assessed by the Secretary.

*Section 12.*—Section 12(1) adds carriers to those liable to cease and desist orders and license suspensions under 7 U.S.C. 2149(a) and to criminal penalties under 2149(c) as well as to those given standing to judicial review of the Secretary's orders under 2149(b).

Section 12(2) amends 7 U.S.C. 2149(c) to change the maximum term of imprisonment from 1 year to 6 months.

Section 12(3) amends 7 U.S.C. 2149(a) by providing that the district courts of the United States shall have the jurisdiction to enforce cease and desist orders issued by the Secretary.

Finally, section 12(4) adds two new subsections to 7 U.S.C. 2149. New subsection (d) provides a civil penalty for violation of the statute or standards promulgated under it. The penalty may not exceed \$2,000 for each violation, and each day of a continuing violation constitutes a separate offense. The amount of the penalty must be assessed by written notice of the Secretary, and he is required to take into account "the nature, circumstance, extent, and gravity of the violation committed, and with respect to the person found to have committed such violation, the degree of culpability, and history of prior offenses, ability to pay, effect on ability to continue to do business and such other matters as justice may require." New subsection (e) permits actions on criminal and civil violations of the Act to be brought before a U.S. magistrate.

*Section 13.*—amends 7 U.S.C. 2151 by adding two new sentences to bring the record-keeping requirements prescribed under section 8 of the bill and standards promulgated pursuant to section 10 (a) and (b) of the bill in line with section 553 of title 5, U.S.C., the Administrative Procedure Act.

*Section 14.*—Section 14(a) strikes the last sentence from 7 U.S.C. 2153 that authorizes to be appropriated such funds as Congress may from time to time provide.

Section 14(b) adds a new section 26 authorizing the appropriation of \$4 million for fiscal year 1976; \$1 million for the transitional quarter ending September 31, 1976; and \$4 million for each of the fiscal years 1977 and 1978 to the Secretary to carry out the purposes of the Act.

*Section 15.*—amends 7 U.S.C. 2154 to add carriers to those for whom regulations take effect 90 days after promulgation. In addition, it provides that regulations for carriers must be prescribed within 9 months of enactment of this bill.

*Section 16.*—amends 7 U.S.C. 2155 adding recommendations and conclusions concerning the aircraft environment as it relates to transporting animals to the list of items required to be included in the Secretary's annual report to the Congress required by the Act.

*Section 17.*—amends 7 U.S.C. 2146(c) by striking the provision relating to title II of the Organized Crime Control Act of 1970 (62 stat. 856; 18 U.S.C. 6001 et seq.), which pertains to the immunity of witnesses.

#### CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX 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 matter is printed in italics, existing law in which no change is proposed is shown in roman) :

#### FEDERAL LABORATORY ANIMAL WELFARE ACT

(7 U.S.C. 2131 ET SEQ.)

#### 【CONGRESSIONAL STATEMENT OF POLICY】

#### SHORT TITLE AND DECLARATION OF POLICY

SEC. 1. [That, in order to protect the owners of animals, from the theft of their animals, to prevent the sale or use of animals which have been stolen, and to insure that certain animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment, it is essential to regulate the transportation, purchase, sale, housing, care, handling, and treatment of such animals by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or in transporting, buying, or selling them for any such purpose or use.]

(a) *This Act may be cited as the "Animal Welfare Act."*

(b) *The Congress finds that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—*

(1) *to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;*

(2) *to assure the humane treatment of animals during transportation in commerce; and*

(3) *to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.*

*The Congress further finds that it is essential to regulate, as provided in this Act, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for*

exhibition purposes or holding them for sale as pets or for any such purpose or use.

## DEFINITIONS

SEC. 2. (a) \* \* \*

(b) \* \* \*

(c) [The term "commerce" means trade, traffic, commerce, transportation among the several States, or between any State, territory, possession, or the District of Columbia, or the Commonwealth of Puerto Rico, and any place outside thereof; or between points within the same State, territory, or possession, or the District of Columbia, or the Commonwealth of Puerto Rico, but through any place outside thereof; or within any territory, possession, or the District of Columbia;] *The term 'commerce' means trade, traffic, transportation, or other commerce—*

(1) *between a place in a State and any place outside of such State; or*

(2) *which affects trade, traffic, transportation, or other commerce described in paragraph (1) of this subsection;*

(d) [The term "affecting commerce" means in commerce or burdening or obstructing or substantially affecting commerce or the free flow of commerce, or having led or tending to lead to the inhumane care of animals used or intended for use for purposes of research, experimentation, exhibition, or held for sale as pets, by burdening or obstructing or substantially affecting commerce or the free flow of commerce;] *The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;*

(e) The term "research facility" means any school (except an elementary or secondary school), institution, organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals [affecting commerce] *in commerce*, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments: *Provided*, That the Secretary may exempt, by regulation, any such school, institution, organization, or person that does not use or intend to use live dogs or cats, except those schools, institutions, organizations, or persons, which use substantial numbers (as determined by the Secretary) of live animals the principal function of which schools, institutions, organizations, or persons, is biomedical research or testing, when in the judgment of the Secretary, any such exemption does not vitiate the purpose of this chapter;

(f) The term "dealer" means any person who for compensation or profit delivers for transportation, or transports, except as a common carrier, buys, or sells or offers for sale any animals whether alive or dead, [affecting commerce] *in commerce*, for research or teaching purposes or for exhibition purposes or for use as pets, but such term excludes any retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer];

(g) [The term "animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such

other warm-blooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet; but such term excludes horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber; and] *The term 'animal' means any dog, cat, monkey, guinea pig, hamster, rabbit, bird, horse, or any other animal, which the Secretary determines is intended for use for research, testing, experimentation, or exhibition purposes, or which is used or intended for use as a pet. With respect to a dog, the term also includes a dog used for hunting, security, or breeding purposes. The term does not include farm animals, such as, but not limited to, livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency;*

(h) The term "exhibitor" means any person (public or private) exhibiting any animals [which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce.] *in commerce* to the public for compensation, as determined by the Secretary, and such term includes carnivals, circuses, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and county fairs, livestock shows, rodeos, pure-bred dog and cat shows, and any other fairs or exhibitions intended to advance agricultural arts and sciences, as may be determined by the Secretary.]; and

(i) *The term "carrier" means any person subject to regulation by the Interstate Commerce Commission, the Civil Aeronautics Board, or the Federal Maritime Commission, or any other person or class of persons engaged in the business of transporting animals for hire or providing services incidental to such transportation, as designated by the Secretary of Transportation.*

## LICENSING OF DEALERS AND EXHIBITORS

SEC. 3. The Secretary shall issue licenses to dealers and exhibitors upon application therefor in such form and manner as he may prescribe and upon payment of such fee established pursuant to section 23 of this act: *Provided*, That no such license shall be issued until the dealer or exhibitor shall have demonstrated that his facilities, including any terminal facilities used by such person, comply with the standards promulgated by the Secretary pursuant to section 13 of this Act: *Provided, however*, That any retail pet store or other person who derives less than a substantial portion of his income (as determined by the Secretary) from the breeding and raising of dogs or cats on his own premises and sells any such dog or cat to a dealer or research facility shall not be required to obtain a license as a dealer or exhibitor under this chapter. The Secretary is further authorized to license, as dealers or exhibitors persons who do not qualify as dealers or exhibitors within the meaning of this chapter upon such persons'

complying with the requirements specified above and agreeing, in writing, to comply with all the requirements of this chapter and the regulations promulgated by the Secretary hereunder.

#### VALID LICENSE FOR DEALERS AND EXHIBITORS REQUIRED

SEC. 4. No dealer or exhibitor shall sell or offer to sell or transport or offer for transportation, [affecting commerce] *in commerce*, to any research facility or for exhibition or for use as a pet any animal, or buy, sell, offer to buy or sell, transport or offer for transportation, [affecting commerce] *in commerce* to or from another dealer or exhibitor under this chapter any animal, unless and until such dealer or exhibitor shall have obtained a license from the Secretary and such license shall not have been suspended or revoked.

\* \* \* \* \*

#### REGISTRATION OF RESEARCH FACILITIES AND UNLICENSED EXHIBITORS

SEC. 6. [Every research facility and every] *Every research facility, carrier and exhibitor not licensed under section 3 of this act shall register with the Secretary in accordance with such rules and regulations as he may prescribe.*

\* \* \* \* \*

#### PRINCIPAL—AGENT RELATIONSHIP ESTABLISHED

SEC. 9. When construing or enforcing the provisions of this chapter, the act, omission, or failure of any person acting for or employed by a research facility, a dealer, a carrier, or an exhibitor or a person licensed as a dealer or an exhibitor pursuant to the second sentence of section 3, or an operator of an auction sale subject to section 12 of this act, within the scope of his employment or office, shall be deemed the act, omission, or failure of such research facility, dealer, carrier, exhibitor, licensee, or an operator of an auction sale as well as of such person.

#### RECORDKEEPING BY DEALERS, EXHIBITORS AND RESEARCH FACILITIES

SEC. 10. Dealers and exhibitors shall make and retain for such reasonable period of time as the Secretary may prescribe, such records with respect to the purchase, sale, transportation, identification, and previous ownership of animals as the Secretary may prescribe [ , upon forms supplied by the Secretary]. Research facilities shall make and retain such records only with respect to the purchase, sale, transportation, identification, and previous ownership of live dogs and cats. *Carriers shall keep such records as are necessary to carry out this Act, with respect to the transportation, receiving, handling, and delivering of animals, as the Secretary may prescribe: Provided, that in the case of those carriers required to maintain records under requirements of other federal agencies, if the Secretary determines that any additional records are needed for the purposes of this Act, and proposes to require such records, such requirements shall not become effective until they have been approved by such other agencies. Any*

*effective until they have been approved by such other agencies. Such records shall be made available at all reasonable times for inspection and copying by the Secretary.*

#### MARKING AND IDENTIFICATION OF ANIMALS

SEC. 11. All animals delivered for transportation, transported, purchased, or sold, [affecting commerce] *in commerce*, by a dealer or exhibitor shall be marked or identified at such time and in such humane manner as the Secretary may prescribe: *Provided, That only live dogs and cats need be so marked or identified by a research facility.*

#### HUMANE STANDARDS AND RECORDKEEPING REQUIREMENTS AT AUCTION SALES

SEC. 12. The Secretary is authorized to promulgate humane standards and recordkeeping requirements governing the purchase, handling, or sale of animals, [affecting commerce] *in commerce*, by dealers, research facilities, and exhibitors at auction sales and by the operators of such auction sales. The Secretary is also authorized to require the licensing of operators of auction sales where any dogs or cats are sold, affecting commerce, under such conditions as he may prescribe, and upon payment of such fee as prescribed by the Secretary under section 23 of this Act.

#### [HUMANE STANDARDS FOR ANIMALS BY DEALERS, RESEARCH FACILITIES, AND EXHIBITORS]

#### HUMANE STANDARDS FOR ANIMALS

SEC. 13. (a) The Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors. Such standards shall apply with respect to the facilities of any person licensed or registered pursuant to this Act and with respect to any terminal facilities used by a carrier subject to this Act and shall include minimum requirements with respect to handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, including the appropriate use of anesthetic, analgesic or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian of such research facilities, and separation by species when the Secretary finds such separation necessary for the humane handling, care, or treatment of animals. In promulgating and enforcing standards established pursuant to this section, the Secretary is authorized and directed to consult experts, including outside consultants where indicated. Nothing in this chapter shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to design, outlines, guidelines, or performance of actual research or experimentation by a research facility as determined by such research facility: *Provided, That the Secretary shall require, at least annually, every research facility to show that professionally acceptable standards governing the care, treatment, and use of animals, including appropriate use of anes-*



thetic, analgesic, and tranquilizing drugs, during experimentation are being followed by the research facility during actual research or experimentation.

(b) *The Secretary shall promulgate standards in accordance with this subsection to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by carriers, of animals consigned by any dealer, research facility, owner of a pet, exhibitor, operator of an auction sale, department, agency, or instrumentality of the Federal Government or of any State or local government, or other person. Such standards shall include, but need not be limited to, minimum requirements with respect to containers, feed, water, rest, ventilation, temperature, handling, veterinary care, and other factors determined by the Secretary to be relevant to assuring the humane treatment of animals in the course of their transportation in commerce. Such standards shall be designed to assure the safe transportation in commerce of all animals received in healthy condition and to safeguard such animals against disease, injury, and death in the course thereof. The Secretary may revise such standards to the extent necessary or appropriate. Such standards may include a requirement that no animal of a designated kind shall be—*

(1) *delivered by a dealer, research facility, exhibitor, operator of an auction sale, owner of a pet, or by a department, agency, or instrumentality of the Federal Government or of any State or local government, to a carrier, for transportation in commerce; or*

(2) *received by a carrier, for transportation in commerce, from any person or government entity described in paragraph (1); unless it is accompanied by a certificate issued with respect to such animal by an accredited (as defined by the Secretary) veterinarian. Each such certificate shall attest that such veterinarian inspected such animal within a time interval which shall be specified and that, when so inspected, such animal appeared to be free of any infectious disease or physical abnormality which might endanger such animal or other animals during transportation in commerce. Any such certificate shall be issued at a time interval, and shall be retained by the receiving carrier for a reasonable period of time in accordance with regulations of the Secretary.*

(c) *No carrier involved in the transportation of any animal in commerce shall participate in any arrangement, or engage in any practice, under which the cost of the transportation of such animal, or any other charges (including the purchase price of any such animal), is required to be paid and collected upon the delivery of such animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges, including, where necessary, both the return transportation charges and an amount sufficient to reimburse such carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of any such animal in the event that such animal is not claimed upon delivery. Such transportation shall be permitted by the carriers after a period of 24 hours.*

\* \* \* \* \*

CONSULTATION AND COOPERATION WITH FEDERAL, STATE, AND LOCAL  
GOVERNMENTAL BODIES BY SECRETARY OF AGRICULTURE

SEC. 15. (a) \* \* \*

(b) \* \* \*

(c) *In addition to other applicable requirements, the Secretary shall consult and cooperate with the Secretary of Transportation, the Administrator of the Federal Aviation Administration, the Chairman of the Civil Aeronautics Board, the Chairman of the Interstate Commerce Commission, and the Chairman of the Federal Maritime Commission with respect to the establishment and enforcement of humane standards for animals in the course of their transportation in commerce and in terminal facilities prior to and after such transportation. Before promulgating any standard governing air transportation and related handling of animals, the Secretary shall consult with the Administrator of the Federal Aviation Administration who shall have the authority to disapprove any such standard if he notifies the Secretary, within 30 days after such consultation, that changes are necessary in the interest of safety flight including the safety of the aircraft, its environment, or its equipment. The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any determination by the Secretary with respect to a person subject to regulation by it."*

ADMINISTRATION AND ENFORCEMENT BY SECRETARY—INVESTIGATIONS  
AND INSPECTIONS

SEC. 16. (a) *The Secretary shall make such investigations or inspections as he deems necessary to determine whether any dealer, exhibitor, carrier, research facility, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provision of this chapter or any regulation or standard issued thereunder, and for such purposes, the Secretary shall, at all reasonable times have access to the places of business and the facilities, animals, and those records required to be kept pursuant to section 10 of any such dealer, exhibitor, carrier, research facility, or operator of an auction sale. The Secretary shall promulgate such rules and regulations as he deems necessary to permit inspectors to confiscate or destroy in a humane manner any animal found to be suffering as a result of a failure to comply with any provision of this chapter or any regulation or standard issued thereunder if (1) such animal is held by a dealer, (2) such animal is held by an exhibitor, (3) such animal is held by a research facility and is no longer required by such research facility to carry out the research, test, or experiment for which such animal has been utilized, [or] (4) such animal is held by an operator of an auction sale, or (5) such animal is held by a carrier. The United States attorneys are authorized to prosecute all criminal violations of this Act reported by the Secretary and to initiate civil actions to enforce orders of, and to recover all civil penalties assessed and reported by the Secretary, or which come to their notice or knowledge by other means."*

(b) \* \* \*

## PROCEDURES

(c) For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914 (38 Stat. 721-723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraph (c) through (h) of section 6 and the last paragraph of section 9) [and the provisions of Title II of the "Organized Crime Control Act of 1970" (62 Stat. 856; 18 U.S.C. 6001 et seq.)], are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person, firm, or corporation with respect to whom such authority is exercised. The Secretary may prosecute any inquiry necessary to his duties under this Act in any part of the United States, including any territory, or possession thereof, the District of Columbia, or the Commonwealth of Puerto Rico. The powers conferred by said sections 9 and 10 of the Act of September 26, 1914, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any district court of the United States. 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, shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in sections 19(b) and 20(b) of this Act."

\* \* \* \* \*

VIOLATIONS BY DEALERS, EXHIBITORS, AND OPERATORS OF AUCTION SALES—  
CEASE AND DESIST ORDERS; LICENSE SUSPENSIONS; CIVIL PENALTIES

SEC. 19. (a) If the Secretary has reason to believe that any dealer, exhibitor, or operator of an auction sale subject to section 12 of this act, has violated or is violating any provisions of this chapter, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may make an order that such person shall cease and desist from continuing such [violation, and if] violation. *The district courts of the United States shall have jurisdiction to enforce any such order by appropriate means. If such person is licensed under this chapter, the Secretary may also suspend such person's license temporarily, but not to exceed twenty-one days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred. Any dealer, exhibitor, carrier or operator of an auction sale subject to section 12 of this Act, who knowingly fails to obey a cease and desist order made by the Secretary under this section, shall be subject to a civil penalty of \$500 for each offense, and each day during which such failure continues, shall be deemed a separate offense.*

JUDICIAL REVIEW OF FINAL ORDERS OF SECRETARY

"(b) Any dealer, exhibitor, carrier, or operator of an auction sale aggrieved by a final order of the Secretary issued pursuant to subsec-

tion (a) of this section may, within sixty days after entry of such an order, seek review of such order in the United States court of appeals for the circuit in which such person has his principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, in accordance with the provisions of section 701-706 of title 5, United States Code. Judicial review of any such order shall be upon the record upon which the final determination and order of the Secretary were based.

CRIMINAL PENALTIES

(c) Any dealer, exhibitor, carrier, or operator of an auction sale subject to section 12 of this Act, who knowingly violates any provision of this chapter shall, on conviction thereof, be subject to imprisonment for not more than [one year] 6 months, or a fine of not more than \$1,000, or both.

(d) Any dealer, exhibitor, carrier, or operator of an auction sale subject to this Act who is determined by the Secretary, after notice and an opportunity for a hearing, to have violated a provision of this Act or of a standard or regulation prescribed pursuant to this Act, shall be liable to the United States for a civil penalty. The amount of such penalty shall be not more than \$2,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, 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.

(e) Any action under this section may be brought before a United States magistrate in the district court of the United States in any judicial district in which such person is found, and such magistrate shall have jurisdiction to hear and decide such action.

\* \* \* \* \*

RULES AND REGULATIONS

SEC. 21. The Secretary is authorized to promulgate such rules, regulations, and orders as he may deem necessary in order to effectuate the purposes of this chapter. *Record-keeping requirements prescribed pursuant to section 8, and standards promulgated pursuant to subsections (a) and (b) of section 10, shall be prescribed or promulgated in accordance with section 553 of title 5, United States Code, except that interested persons shall be entitled to make oral as well as written presentations. A transcript shall be taken of any oral presentation.*

\* \* \* \* \*

FEES [AND APPROPRIATIONS]

SEC. 23. The Secretary shall charge, assess, and cause to be collected reasonable fees for licenses issued. Such fees shall be adjusted on an equitable basis taking into consideration the type and nature of the operations to be licensed and shall be deposited and covered into the

Treasury as miscellaneous receipts. [There are hereby authorized to be appropriated such funds as Congress may from time to time provide.]

## EFFECTIVE DATES

SEC. 24. The regulations referred to in section 10 and section 13 shall be prescribed by the Secretary as soon as reasonable but not later than six months from the date of enactment of this Act, *except that the regulations relating to carriers shall be prescribed not later than 9 months after the date of enactment of the Animal Welfare Amendments of 1975.* Additions and amendments thereto may be prescribed from time to time as may be necessary or advisable. Compliance by dealers *and carriers* with the provisions of this Act and such regulations shall commence ninety days after the promulgation of such regulations. Compliance by research facilities with the provisions of this Act and such regulations shall commence six months after the promulgation of such regulations, except that the Secretary may grant extensions of time to research facilities which do not comply with the standards prescribed by the Secretary pursuant to section 13 of this Act provided that the Secretary determines that there is evidence that the research facilities will meet such standards within a reasonable time.

## ANNUAL REPORT TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

SEC. 25. Not later than March of each year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a comprehensive and detailed written report with respect to—

“(1) the identification of all research facilities, exhibitors, and other persons and establishments licensed by the Secretary under section 3 and section 12 of this Act;

“(2) the nature and place of all investigations and inspections conducted by the Secretary under section 16 of this Act, and all reports received by the Secretary under section 13 of this Act; [and]

(3) *recommendations and conclusions approved by the Secretary of Transportation, the Administrator of the Federal Aviation Administration and the Chairman of the Civil Aeronautics Board, concerning flight safety, including the aircraft, its environment, or equipment as they relate to the carriage of live animals in air transportation; and*

[(3)] (4) recommendations for legislation to improve the administration of this chapter or any provisions thereof.

This report as well as any supporting documents, data, or findings shall not be released to any other persons, non-Federal agencies, or organizations unless and until it has been made public by an appropriate committee of the Senate or the House of Representatives.

## APPROPRIATIONS

SEC. 26. *There is authorized to be appropriated to the Secretary to carry out the provisions of this Act not to exceed \$4,000,000 for the fiscal year ending June 30, 1976, not to exceed \$1,000,000 for the transitional fiscal quarter ending September 31, 1976, not to exceed \$4,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$4,000,000 for the fiscal year ending September 31, 1978.*

## ESTIMATED COSTS

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that the costs for the implementation of the Animal Welfare Act as amended by this bill would be as follows: not to exceed \$4,000,000 for the fiscal year ending June 30, 1976, not to exceed \$1,000,000 for the transitional fiscal quarter ending September 31, 1976, not to exceed \$4,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$4,000,000 for the fiscal year ending September 31, 1978.

## TEXT OF S. 1941, AS REPORTED

A BILL To increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Animal Welfare Amendments of 1975”.

SEC. 2. Section 1 of the Act of August 24, 1966, as amended (7 U.S.C. 2131), is amended to read as follows:

## “SHORT TITLE AND DECLARATION OF POLICY

“SEC. 1. (a) This Act may be cited as the ‘Animal Welfare Act’.

“(b) The Congress finds that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—

(1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;

(2) to assure the humane treatment of animals during transportation in commerce; and

(3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this Act, the transportation, purchase, sale, housing, care, handling,

and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use.”.

SEC. 3. Section 2 of such Act (7 U.S.C. 2132) is amended (1) by striking out subsections (c) and (d) thereof and inserting in lieu the following:

“(c) The term ‘commerce’ means trade, traffic, transportation, or other commerce—

“(1) between a place in a State and any place outside of such State; or

“(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1).

“(d) The term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;”.

(2) by striking out the term “affecting commerce” in subsections (e) and (f) and inserting in lieu thereof “in commerce”; (3) by amending subsection (g) thereof to read as follows:

“(g) The term ‘animal’ means any dog, cat, monkey, guinea pig, hamster, rabbit, bird, horse, or any other animal, which the Secretary determines is intended for use for research, testing, experimentation, or exhibition purposes, or which is used or intended for use as a pet. With respect to a dog, the term also includes a dog used for hunting, security, or breeding purposes. The term does not include farm animals, such as, but not limited to, livestock or poultry, used or intended for use as food of fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency.”.

(3) by amending subsection (f) thereof by inserting after “or sells” and before “any” the following: “, or offers for sale,”; (4) by further amending subsection (f) by inserting a semi-colon after the word “pets” and by striking “, but such term excludes any retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer,”; (5) by amending subsection (h) thereof by striking out “, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce,” and inserting in lieu thereof “in commerce”; and (6) adding at the end thereof the following new subsection:

“(i) The term ‘carrier’ means any person subject to regulation by the Interstate Commerce Commission, the Civil Aeronautics Board, or the Federal Maritime Commission, or any other person or class of persons engaged in the business of transporting animals for hire or providing services incidental to such transportation, as designated by the Secretary of Transportation.”.

SEC. 4. Section 3 of such Act (7 U.S.C. 2133) is amended by inserting after “his facilities” and before “comply” in the first proviso thereof the following: “, including any terminal facilities used by such person.”.

SEC. 5. Sections 4, 11, and 12 of such Act (7 U.S.C. 2134, 2141, and 2142) are amended by striking out “affecting commerce” and inserting in lieu thereof “in commerce”.

SEC. 6. Section 6 of such Act (7 U.S.C. 2136) is amended by striking out “Every research facility and every” and inserting in lieu thereof “Every research facility, carrier, and”.

SEC. 7. Section 9 of such Act (7 U.S.C. 2139), is amended by inserting after “dealer,” the first time it appears the term “a carrier,” and the third time it appears the term “carrier”.

SEC. 8. Section 10 of such Act (7 U.S.C. 2140) is amended by deleting “upon forms supplied by the Secretary” in the first sentence thereof and by adding after the second sentence thereof the following two new sentences: “Carriers shall keep such records as are necessary to carry out this Act, with respect to the transportation, receiving, handling, and delivering of animals, as the Secretary may prescribe: *Provided*, That in the case of those carriers required to maintain records under requirements of other Federal agencies, if the Secretary determines that any additional records are needed for the purposes of this Act, and proposes to require such records, such requirements shall not become effective until they have been approved by such other agencies. Any such records shall be made available at all reasonable times for inspection and copying by the Secretary.”.

SEC. 9. Section 13 of such Act (7 U.S.C. 2143), is amended (1) by amending the title thereof to read as follows: “HUMANE STANDARDS FOR ANIMALS”; (2) by inserting “(a)” immediately before the first sentence thereof; (3) by amending the second sentence thereof by inserting after “Such standards” and before “shall include” the following: “shall apply with respect to the facilities of any person licensed or registered pursuant to this Act and with respect to any terminal facilities used by a carrier subject to this Act and”; and (4) by adding at the end thereof the following two new subsections:

“(b) The Secretary shall promulgate standards in accordance with this subsection to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by carriers, of animals consigned by any dealer, research facility, owner of a pet, exhibitor, operator of an auction sale, department, agency, or instrumentality of the Federal Government or of any State or local government, or other person. Such standards shall include, but need not be limited to, minimum requirements with respect to containers, feed, water, rest, ventilation, temperature, handling, veterinary care, and other factors determined by the Secretary to be relevant to assuring the humane treatment of animals in the course of their transportation in commerce. Such standards shall be designed to assure the safe transportation in commerce of all animals received in healthy condition and to safeguard such animals against disease, injury, and death in the course thereof. The Secretary may revise such standards to the extent necessary or appropriate. Such standards may include a requirement that no animal of a designated kind shall be—

“(1) delivered by a dealer, research facility, exhibitor, operator of an auction sale, owner of a pet, or by a department, agency, or instrumentality of the Federal Government or of any State or local government, to a carrier, for transportation in commerce; or

“(2) received by a carrier, for transportation in commerce, from any person or government entity described in paragraph (1);

unless it is accompanied by a certificate issued with respect to such animal by an accredited (as defined by the Secretary) veterinarian. Each such certificate shall attest that such veterinarian inspected such animal within a time interval which shall be specified and that, when so inspected, such animal appeared to be free of any infectious disease or physical abnormality which might endanger such animal or other animals during transportation in commerce. Any such certificate shall be issued at a time interval, and shall be retained by the receiving carrier for a reasonable period of time in accordance with regulations of the Secretary.

“(c) No carrier involved in the transportation of any animal in commerce shall participate in any arrangement, or engage in any practice, under which the cost of the transportation of such animal, or any other charges (including the purchase price of any such animal), is required to be paid and collected upon the delivery of such animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges, including, where necessary, both the return transportation charges and an amount sufficient to reimburse such carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of any such animal in the event that such animal is not claimed upon delivery. Such transportation shall be permitted by the carriers after a period of 24 hours.”

SEC. 10. Section 15 of such Act (7 U.S.C. 2145) is amended by adding at the end thereof the following new subsection:

“(c) In addition to other applicable requirements, the Secretary shall consult and cooperate with the Secretary of Transportation, the Administrator of the Federal Aviation Administration, the Chairman of the Civil Aeronautics Board, the Chairman of the Interstate Commerce Commission, and the Chairman of the Federal Maritime Commission with respect to the establishment and enforcement of humane standards for animals in the course of their transportation in commerce and in terminal facilities prior to and after such transportation. Before promulgating any standard governing air transportation and related handling of animals, the Secretary shall consult with the Administrator of the Federal Aviation Administration who shall have the authority to disapprove any such standard if he notifies the Secretary, within 30 days after such consultation that changes are necessary in the interest of safety flight including the safety of the aircraft, its environment, or its equipment. The Interstate Commerce, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any determination by the Secretary with respect to a person subject to regulation by it.”

SEC. 11. Section 16(a) of such Act (7 U.S.C. 2146 (a)) is amended (1) by inserting “carrier,” in the first sentence thereof after the term “exhibitor”, each time such term appears in such sentence; (2) by striking out “or” before “(4)” in the third sentence thereof; (3) by inserting before the period at the end of the third sentence thereof the following: “, or (5) such animal is held by a carrier”; and (4) by adding the following new sentence at the end thereof: “The United

States attorneys are authorized to prosecute all criminal violations of this Act reported by the Secretary and to invite civil actions to enforce orders of and to recover all civil penalties assessed and reported by the Secretary, or which come to their notice or knowledge by other means.”

SEC. 12. Section 19 of such Act, as amended (7 U.S.C. 2149), is amended (1) by inserting after “exhibitor,” each time the term appears the following: “carrier,”; (2) by striking out “one year” in subsection (c) thereof and inserting in lieu thereof “6 months”; (3) by amending subsection (a) thereof by striking “violation, and if” and inserting in lieu thereof the following: “violation. The district courts of the United States shall have jurisdiction to enforce any such order by appropriate means. If”; (4) by amending subsection (c) thereof by inserting “knowingly” after “who” and before “violates”; and (5) by adding at the end thereof the following two new subsections:

“(d) Any dealer, exhibitor, carrier, or operator of an auction sale subject to this Act who is determined by the Secretary, after notice and an opportunity for a hearing, to have violated a provision of this Act or of a standard or regulation prescribed pursuant to this Act, shall be liable to the United States for a civil penalty. The amount of such penalty shall be not more than \$2,000 for each violation, and if any violation is a continuing one, each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, 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.”

“(e) Any action under this section may be brought before a United States magistrate in the district court of the United States in any judicial district in which such person is found, and such magistrate shall have jurisdiction to hear and decide such action.”

SEC. 13. Section 21 of such Act (7 U.S.C. 2151) is amended by adding at the end thereof the following two new sentences: “Record-keeping requirements prescribed pursuant to section 8, and standards promulgated pursuant to subsections (a) and (b) of section 10, shall be prescribed or promulgated in accordance with section 553 of title 5, United States Code, except that interested persons shall be entitled to make oral as well as written presentations. A transcript shall be taken of any oral presentation.”

SEC. 14. (a) Section 23 of such Act (7 U.S.C. 2153) is amended by striking out the last sentence.

(b) Such Act is amended by adding at the end thereof the following new section.

“SEC. 26. There is authorized to be appropriated to the Secretary to carry out the provisions of this Act not to exceed \$4,000,000 for the fiscal year ending June 30, 1976, not to exceed \$1,000,000 for the transitional fiscal quarter ending September 31, 1976, not to exceed \$4,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$4,000,000 for the fiscal year ending September 31, 1978.”

SEC. 15. Section 24 of such Act (7 U.S.C. 2154) is amended (1) by inserting "and carriers" after the term "dealers" in the third sentence thereof, and (2) by adding after "of this Act" and before the period at the end of the first sentence the following: "except that the regulations relating to carriers shall be prescribed not later than 9 months after the date of enactment of the 'Animal Welfare Amendments of 1975.'"

SEC. 16. Section 25 of such Act (7 U.S.C. 2155) is amended (1) by striking out "and" at the end of paragraph (2) thereof, (2) by redesignating paragraph (3) thereof as paragraph (4) thereof; and (3) by inserting therein the following new paragraph:

"(3) recommendations and conclusions approved by the Secretary of Transportation, the Administrator of the Federal Aviation Administration and the Chairman of the Civil Aeronautics Board, concerning flight safety, including the aircraft, its environment, or equipment as they relate to the carriage of live animals in air transportation; and"

SEC. 17. Section 16(c) of such Act (7 U.S.C. 2146c) is amended by striking "and the provisions of title II of the Organized Crime Control Act of 1970 (62 Stat. 856; 18 U.S.C. 6001 et seq.),".

#### AGENCY COMMENTS

NATIONAL TRANSPORTATION SAFETY BOARD,  
Washington, D.C., July 17, 1975.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of July 1, 1975, inviting the comments of the National Transportation Safety Board on S. 1941, a bill "To increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes."

We have reviewed the proposed legislation and determined that we have no official comments to offer at this time. Your thoughtfulness in soliciting our views is greatly appreciated.

Sincerely yours,

JOHN H. REED, *Chairman.*

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
Washington, D.C., November 20, 1975.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 1941, a bill "To increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes."

This Department does not favor enactment of the bill.

The bill would amend the Act of August 24, 1966, as amended, to provide further measures with regard to the humane treatment of animals, as defined. The bill would expand the scope of the Act to include intermediate handlers, common carriers, and retail pet stores. It extends the definition of an animal to include any live or dead bird used in connection with a retail pet store or a zoo. The bill would clarify coverage of the Act with respect to intrastate commerce. The existing requirements under the Act with regard to the facility standards for licensed dealers and exhibitors would be extended so as to include terminal facilities used by them.

Authority would be provided to promulgate regulations and standards governing the transportation in commerce and related handling by intermediate handlers and common carriers. Such regulations and standards could include prohibitions on transporting in commerce dogs, cats, and other designated animals that are less than eight weeks old (or less than such age as may be prescribed) and could prohibit such transportation unless the animals involved are accompanied by a certificate of health issued by a licensed veterinarian.

This Department would be required to consult and cooperate with the Secretary of Transportation in the establishment and enforcement of humane standards for animals in the course of their transportation or while in terminal facilities in connection therewith. The bill would provide for administrative civil penalties against a dealer, exhibitor, operator of an auction sale, intermediate handler or common carrier that knowingly commits an act prohibited by the Act or a standard prescribed thereunder.

Concerning the animal transportation provisions of the bill, there are available alternative measures which can achieve many of the objectives of the bill. These alternatives should be fully explored and tested before any additional legislative action is taken.

Representatives of the animal carriers, freight forwarders, animal dealers, humane societies, animal science professionals, State and Federal agencies, and other interested parties could collectively develop and agree on animal transportation standards and procedures that would be acceptable to all and which could be followed on a voluntary basis. An appropriate forum for this would be the National Council on Animal Transportation, which has representation from nearly all of the interested parties in animal transportation.

The Civil Aeronautics Board has initiated administrative proceedings relating to the rules and practices for the acceptance and carriage of live animals in domestic air freight transportation. Following these proceedings, the Department could provide guidelines which the interested and involved public and the animal carriers could use to provide a uniform base for transporting animals.

Another focal point for effective activity would be in the Interagency Committee on Live Transportation formed at the recommendation of the House Committee on Government Operations. The original purpose of the Interagency Committee was to cover only air transportation of animals. Its charter could be broadened to include other forms of transportation, and its membership could be expanded to include other transportation regulatory agencies such as the Interstate Commerce Commission.



The Interagency Committee held an organizational meeting on October 30, 1974. Rather than duplicate the efforts and information being assimilated by the Civil Aeronautics Board's administrative hearing, it was decided that the Committee would until the information from the hearing could be assembled and summarized before determining a proper course of action. A meeting of the Committee will be held subsequent to the CAB hearing, and improvement in the humane care and treatment of animals during transportation will be actively pursued.

Concerning the provisions of the bill to include retail pet stores under the Act, we estimate that there are as many as 10,000 such stores in the United States. This extension of the Act would require substantial additional Federal funds to provide the manpower and other resources necessary for enforcement purposes. Under present budgetary and personnel constraints, we are in no position to recommend such an extension of the Act.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,  
*Under Secretary.*

DEPARTMENT OF JUSTICE,  
*Washington, D.C., December 8, 1975.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S. 1941, a bill "To increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes."

The bill broadens the Animal Welfare Act by extending its provisions to intermediate handlers and common carriers, as those terms are defined in the bill; providing for the establishment and enforcement of humane standards for animals in the course of their transportation in commerce and in terminal facilities prior to and after such transportation by the Secretary of Agriculture in cooperation with the Secretary of Transportation; requiring the maintenance and retention of certain records with respect to certain provisions of the Act; and providing a civil penalty of not more than \$2,000 for each violation of a provision of the Animal Welfare Act or any standard prescribed pursuant thereto.

The Department of Justice has for some time been on record in support of civil remedies exclusively for violations of the nature of those defined in this bill. However, we object to the wording contained in lines 18-24 on page 8 of the bill requiring United States Attorneys to prosecute all criminal violations of the Act reported by the Secretary and to initiate civil actions to recover all civil penalties assessed and reported by the Secretary or which come to their notice or knowledge by other means. Such language is superfluous in view of the provisions of 28 U.S.C. 547 setting forth the duties of United States Attorneys.

With the exception of the above noted objections, the Justice Department defers to the Departments of Agriculture and Transportation as to the merits of the bill inasmuch as the subject matter falls primarily within their jurisdictions.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

MICHAEL M. UHLMANN.

## ANIMAL WELFARE ACT AMENDMENTS OF 1976

JANUARY 29, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FOLEY, from the Committee on Agriculture,  
submitted the following

### REPORT

together with

### DISSENTING VIEWS

[To accompany H.R. 5808]

The Committee on Agriculture, to whom was referred the bill (H.R. 5808) to amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike page 1, line 3, through and including page 8, line 25, and insert in lieu thereof the following:

That this Act may be cited as the "Animal Welfare Act Amendments of 1976".

SEC. 2. Section 2 of the Federal Laboratory Animal Welfare Act of August 24, 1966 (80 Stat. 350, as amended by the Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C. 2131-2155) is hereby further amended by—

(a) revising paragraph (f) thereof to read as follows:

"(f) The term 'dealer' means any person who, affecting commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sales of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—

"(i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or



"(ii) any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than \$500 gross income from the sale of other animals during any calendar year:";

(b) deleting "; and" at the end of paragraph (g) and inserting in lieu thereof the following: ". With respect to a dog, the term means all dogs including those used for hunting, security, or breeding purposes;"; and

(c) deleting the period at the end of paragraph (h) and inserting a semicolon in lieu thereof.

SEC. 3. Section 2 of such Act is further amended by adding thereto two new paragraphs to read:

"(i) The term 'intermediate handler' means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation affecting commerce; and

"(j) The term 'carrier' means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire."

SEC. 4. Section 6 of such Act is amended by inserting after the term "research facility", a comma and the term "every intermediate handler, every carrier,".

SEC. 5. Section 9 of such Act is amended by inserting after the term "section 12 of this Act,"; the term "or an intermediate handler, or a carrier,"; and by deleting the term "or an operator of an auction sale as well as of such person." at the end of section 9 and substituting therefor the following term: "operator of an auction sale, intermediate handler, or carrier, as well as of such person."

SEC. 6. Section 10 of such Act is amended by deleting the phrase ", upon forms supplied by the Secretary" from the first sentence and by inserting between the second and third sentences thereof the following:

"At the request of the Secretary, any regulatory agency of the Federal Government which requires records to be maintained by intermediate handlers and carriers with respect to the transportation, receiving, handling and delivery of animals on forms prescribed by the agency, shall require there to be included in such forms, and intermediate handlers and carriers shall include in such forms, such information as the Secretary may require for the effective administration of this Act. Such information shall be retained for such reasonable period of time as the Secretary may prescribe. If regulatory agencies of the Federal Government do not prescribe

requirements for any such forms, intermediate handlers and carriers shall make and retain for such reasonable period as the Secretary may prescribe such records with respect to the transportation, receiving, handling and delivery of animals as the Secretary may prescribe."

SEC. 7. Section 13 of such Act is amended by designating the provisions thereof as paragraph (a) and by adding, after the second sentence therein, new sentences to read: "The Secretary shall also promulgate standards to govern the transportation affecting commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States, for transportation affecting commerce. The Secretary shall have authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation affecting commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature and handling."

SEC. 8. Section 13 of such Act is further amended by adding at the end thereof new paragraphs (b), (c), and (d) to read:

"(b) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation affecting commerce, or received by any such handler or carrier for such transportation from any such person, department, agency, or instrumentality, unless the animal is accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine, certifying that he inspected the animal on a specified date, which shall not be more than ten days before such delivery, and, when so inspected, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health: *Provided, however,* That the Secretary may by regulation provide exceptions to this certification requirement, under such conditions as he may prescribe in the regulations, for animals shipped to research facilities for purposes of research testing or experimentation requiring animals not eligible for such certification. Such certificates received by the intermediate handlers and the carriers shall be retained by them, as provided by regulations of the Secretary, in accordance with section 10 of this Act.

"(c) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall

be delivered by any person to any intermediate handler or carrier for transportation affecting commerce except to registered research facilities if they are less than eight weeks of age, or such other age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe ages different than eight weeks for particular kinds or classes of dogs, cats, or designated animals, for the purposes of this section, when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation affecting commerce.

“(d) No intermediate handler or carrier involved in the transportation of any animal affecting commerce shall participate in any arrangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges for any animal not claimed within a period of 48 hours after notice to the consignee of arrival of the animal, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of such animals.”

SEC. 9. Section 15 of such Act is amended by inserting after the term “exhibition” in the first sentence, a comma and the term “or administration of statutes regulating the transportation affecting commerce or handling in connection therewith of any animals”, and by adding the following at the end of the sentence: “Before promulgating any standard governing the air transportation and handling in connection therewith, of animals, the Secretary shall consult with the Secretary of Transportation who shall have the authority to disapprove any such standard if he notifies the Secretary, within thirty days after such consultation, that changes in its provision are necessary in the interest of flight safety.”

SEC. 10. (a) Paragraph (a) of section 16 of such Act is amended by inserting the term “intermediate handler, carrier,” in the first sentence after the term “exhibitor,” each time the latter term appears in the sentence; by inserting before the period in the second sentence, a comma and the term “or (5) such animal is held by an intermediate handler or a carrier” and by deleting the term “or” before the term “(4)” in the second sentence.

(b) Paragraph (c) of section 16 of such Act is amended by striking the words “sections 19(b) and 20(b)” in the last sentence and inserting in lieu thereof the words “section 19(c)”.

SEC. 11. Section 19 of such Act is revised to read as follows:

“(a) If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, has violated

or is violating any provision of this Act, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person’s license temporarily, but not to exceed twenty-one days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.

“(b) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, that violates any provision of this Act, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty shall be final and conclusive unless the affected person files an appeal from the Secretary’s order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person’s good faith, and the history of previous violations. Any such civil penalty may be comprised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action.

“(c) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, aggrieved by a final order of the Secretary issued pursuant to this section may, within sixty days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, United States Code, and such Court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary’s order.

“(d) Any dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, who knowingly violates any provision of this Act shall, on conviction thereof, be subject to imprisonment for not more than one year, or a fine of not more than \$1,000 or both. Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States Magistrates as provided in section 636 of title 28, United States

Code, and sections 3401 and 3402 of title 18, United States Code, and may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture.”

SEC. 12. Section 20 of such Act is hereby repealed.

SEC. 13. Section 24 of such Act is amended by inserting the following at the end of the section: “Notwithstanding the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this Act, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence ninety days after promulgation of regulations under section 13 of this Act, as amended, with respect to intermediate handlers and carriers; and such regulations shall be promulgated no later than nine months after the enactment of the Animal Welfare Act Amendments of 1976; and compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of this Act, as so amended, and the regulations thereunder, shall commence upon the expiration of ninety days after enactment of the Animal Welfare Act Amendments of 1976: *Provided, however,* That compliance by all persons with paragraphs (b), (c), and (d) of section 13 of this Act, as so amended, shall commence upon the expiration of said ninety-day period. In all other respects, said amendments shall become effective upon the date of enactment.”

SEC. 14. Section 25 of such Act is amended by deleting from subsection (2) the word “and” where it last appears, deleting the period at the end of subsection (3) and inserting “; and” in lieu thereof, and by inserting after subsection (3) the following new subsection:

“(4) recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation.”

SEC. 15. Such Act is amended by adding at the end thereof the following new section:

Page 9, line 5, insert “knowingly” immediately before “sell”.

Page 11, line 24, insert “any live bird, or” immediately before “any live dog”.

Page 12, delete lines 11 through 16.

#### BRIEF EXPLANATION OF THE LEGISLATION

H.R. 5808, as amended, would broaden and strengthen the authority of the Secretary of Agriculture to establish and enforce humane standards for the treatment of animals under the Animal Welfare Act, as amended, 7 U.S.C. 2131, *et seq.*

In brief, the bill would:

(1) Bring carriers and intermediate handlers within the class of persons regulated under the statute and require them to adhere to

humane standards promulgated by the Secretary with respect to the transportation affecting commerce of all animals protected by the Act.

(2) Amend the definition of the term “animal” under the Act to clarify the fact that, contrary to the interpretation presently held by the Secretary of Agriculture, all dogs, including dogs for hunting, security, or breeding purposes, do fall within the protection of the Act.

(3) Prohibit delivery to an intermediate handler or carrier for transportation affecting commerce of any dog, cat, or other animal (i) designated by the Secretary without a licensed veterinarian’s certificate, or (ii) at an age of less than eight weeks or such other age as may be prescribed by the Secretary to assure their humane treatment, and also prohibit transportation affecting commerce of any animal on a C.O.D. basis unless the shipper guarantees payment of round-trip transportation charges and expenses incurred in their care.

(4) Extend the Secretary’s investigative authority to intermediate handlers and carriers.

(5) Revise the present penalty provisions of the Act to impose a uniform civil penalty provision on all persons regulated under the statute and eliminate the requirement applicable to persons currently covered by the Act that the Secretary issue a cease and desist order before seeking imposition of a civil penalty.

(6) Add to the statute an entirely new section which would make it a crime punishable by fine and imprisonment knowingly to sponsor, participate in, transport, or use the mails to promote fights between live birds, live dogs or other mammals, except man.

#### PURPOSE AND NEED FOR LEGISLATION

The Animal Welfare Act, 7 U.S.C. 2131 *et seq.*, was first enacted in 1966 to prevent theft and sale for use in research of pet cats and dogs, and also to foster humane treatment by dealers and research facilities of cats, dogs, and certain other laboratory animals. In 1970, the Act’s coverage was extended to most live or dead warm-blooded animals. Exhibitors and auction sales were subjected to regulation, and the Secretary’s powers were increased and extended to cover activities which burden, obstruct, or substantially affect interstate commerce.

H.R. 5808 addresses two problems not reached by the present law; (1) mistreatment of animals in the course of their transportation affecting commerce; and (2) animal fighting ventures. All carriers of animals and persons handling such animals in connection with their transportation would be required to adhere to humane standards established pursuant to the bill under pain of civil and criminal penalties. Also, the bill would make it a crime to promote, sponsor, or abet animal fighting ventures. Several other clarifying and strengthening amendments would be made to the present law.

H.R. 5808 deals comprehensively with the persistent problem of mistreatment of animals in the course of their transportation, particularly air transportation. Over the past several years, domestic shipments of live animals by air have increasingly been monitored by the Secretary of Agriculture and to an even greater extent by voluntary organizations dedicated to promoting humane treatment of animals. Many of the problems were explored in the hearings on H.R. 5808 and its

predecessor bills in the 93rd Congress. The sheer volume of animal shipments and particularly air shipments is enormous. For example, an Air Transport Association survey showed an average of over 3,700 animal shipments per day during 1973.

The problems which exist with respect to the air transportation are typical. At present, no single government agency has the authority necessary for the establishment and enforcement of adequate standards for the humane transportation of animals. Instead, three government agencies have ill-defined and incomplete jurisdiction over shipment of animals by air, the Secretary of Agriculture, the Civil Aeronautics Board, and the Federal Aviation Administration. Problems relating to the aircraft environment, *i.e.*, climate control and stowage and tie-down regulations, are the prerogative of the FAA. However, the FAA disclaims the expertise to promulgate effective rules. The CAB has jurisdiction over the tariffs of air carriers and, indeed, conditions for acceptance of animal shipments are contained in some tariffs. However, tariff provisions as, for example, those with respect to suitable containers for live animals are vague and only rarely enforced by the carriers. While the CAB has embarked upon an investigation of live animal transportation by the air carriers, it, too, disclaims the expertise needed to achieve effective regulation and has endorsed H.R. 5808 as a solution to many of the problems.

Witnesses testifying before the Subcommittee on Livestock and Grains cited literally hundreds of examples in which live animals which were injured, diseased, or otherwise unfit to travel were nonetheless shipped, with cruel results. Some animals were shipped in containers or crates which were either flimsy or constructed in a fashion virtually guaranteed to result in injury to the animal. In one instance a cougar shipped in a small crate lined with wire mesh and with only two narrow slits for ventilation was stranded all day in ninety degree heat at National Airport. The animal could not turn around in the coffin-like crate but tore the wire mesh and suffered severe abrasions in its desperate struggle for air. The animal later died. The Director of the National Zoo subsequently stated that he would never ship an animal in such a crate, which he described as inadequate for any purpose other than to transfer an animal between cages. At least in the case of air transportation, live animal shipments are often handled no more expeditiously than ordinary freight. Connections are missed and cargo handlers, accustomed to handling ordinary freight, are by and large insensitive to the special requirements of live animals. The result is that such animals are needlessly left in transit for extended periods without food, water, or exercise and are exposed to extreme conditions of temperature and climate.

The air transportation problem was specifically addressed by the Committee on Government Operations of the House of Representatives in a special report entitled "Problems in Air Shipment of Domestic Animals", House Report No. 93-746, 1973. Among the recommendations of the Government Operations Committee was the establishment of an interagency group to identify the problems and develop corrective regulations. The Committee understands that such an interagency committee was formed but that it has met only infrequently and has taken no constructive action to remedy the many problems described above.

H.R. 5808 would meet the animal transportation problem in a variety of ways. First, of course, it will bring carriers and intermediate handlers under the jurisdiction of the Secretary of Agriculture and, thus, eliminate the confusion which has heretofore stymied progress in this area. The Committee has found that a significant portion of the problem is caused by intermediate handlers of animals, such as express companies, freight forwarders, etc., and, in some cases, cargo handling personnel and facilities. Accordingly, H.R. 5808 brings such intermediate handlers under the jurisdiction of the Secretary.

Carriers and intermediate handlers will be required to keep records either on existing forms or on forms prescribed by the Secretary in order to facilitate monitoring by the Secretary of their compliance with humane standards. The Secretary will be empowered to promulgate standards for intermediate handlers and carriers, the transportation of exceedingly young dogs, cats, and certain other animals will be prohibited, and a licensed veterinarian's certificate required in most instances which certifies that, when inspected by the veterinarian, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or public health. C.O.D. shipments will be prohibited unless the cosignor guarantees payment of round-trip charges. The Secretary will also be empowered to investigate carriers and intermediate handlers. Finally, H.R. 5808 authorizes assessment of civil penalties against intermediate handlers and carriers who violate the standards established by the Secretary. The civil penalty provisions of the present law would be revised to conform to those provided in the bill for intermediate handlers and carriers.

A different and extremely vicious problem is presented by the animal fighting ventures uncovered by the Committee during the hearings. Dog fighting, a minor problem prior to World War II, has unfortunately grown and prospered to the point that Regional Conventions are held which attract fighting dogs and "dog fanciers" from numerous states. They frequently are advertised in dog fighting magazines of nationwide circulation. In addition the "sporting element" of these enterprises, there apparently has grown up also a sort of traveling circus in which vans will travel from state to state and set up for brief periods offering patrons the opportunity to witness and gamble upon a series of dog fights and to indulge at the same time many questionable and criminal activities.

Dog fighting itself is a grisly business in which two dogs either trained specifically for the purpose or maddened by drugs and abuse are set upon one another and required to fight, usually to the death of at least one and frequently both animals. The testimony indicated that a fight between two trained dogs would often continue for over an hour and that the dogs would literally chew out each others' eyes and break or chew off each others' feet and legs, bloodying each other extensively, all to the cheers and goading of handlers and on-lookers. In the training of fighting dogs, live animals, such as cats and sometimes even untrained dogs, are used as bait to instill or enhance the fighting dog's taste for blood and, in some instances, to give it practice in killing other animals.

The Committee considers the practice of dog fighting, and the setting of one dog upon another or upon other animals as bait, etc., in the

training of dogs for fighting to be dehumanizing, abhorrent, and utterly without redeeming social value. It may, of course, not be possible to completely eliminate these practices. However, it is hoped that Federal legislation will complement local law enforcement which, without such assistance, cannot successfully cope with this essentially interstate problem. It is expected that all Federal agencies, such as the FBI, the Treasury Department, etc., will lend every assistance to the Department of Agriculture in effectuating the purpose of this legislation.

H.R. 5808 will make it a crime punishable by a fine of not more than \$5,000 or imprisonment of not more than one year, or both, to sponsor, exhibit an animal in, transport an animal to, or use the United States mail to promote an animal fighting venture. As introduced, the bill would have prohibited fighting only between live dogs or other mammals. However, the Committee amended the bill to include cockfighting within the proscription.

During the Committee consideration, its attention was focused on the need for laboratories to provide adequate opportunity for exercise of dogs housed in cages. The Act has had a benign influence in causing increasing numbers of lab dogs to be housed outside of cages in pens or kennel runways and it is the hope of the Committee that laboratories will expand on their efforts in providing such housing and affording an adequate opportunity for exercising dogs so to maintain their well-being.

The Committee finds that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce or the free and unburdened flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burden upon such commerce, to effectively regulate such commerce, to protect the human values of this great Nation from the subversion of dehumanizing activities, and to carry out the objectives of the Act.

#### SECTION-BY-SECTION ANALYSIS

*Section 1.* This section provides that H.R. 5808 may be cited as the Animal Welfare Act Amendments of 1976.

*Section 2.* This section would expand the definition of the term "dealer" in section 2(f) of the Act to include, in addition to persons who buy or sell animals, persons who, affecting commerce, merely negotiate their purchase or sale. However, the revised definition would expressly exclude from its coverage (i) any retail pet store (with certain exceptions) and (ii) any person who grosses no more than \$500 per year from the sale of animals other than wild animals, dogs or cats, and does not sell any wild animals, dogs or cats. Also, the terms "dealer" and "animal" (sections 2(f) and 2(g) of the Act) would be amended to clarify the fact that all dogs, including those used for hunting, security, or breeding purposes, are protected by the Act.

*Section 3.* This section would add to section 2 of the Act the definitions of two new categories of regulated persons, *viz.* "intermediate handler" and "carrier". The term "carrier" includes airlines, railroads, motor carriers, shipping lines or other enterprises engaged in the business of transporting any animals for hire. The term "intermediate handler" means persons other than dealers, research facilities, exhibi-

tors, operators of auction sales, or carriers and includes express companies, forwarders, and other persons or facilities which handle live animal shipments.

*Section 4.* This section would amend section 6 of the Act to require that intermediate handlers and carriers as well as research facilities and unlicensed exhibitors register with the Secretary of Agriculture.

*Section 5.* This section would add intermediate handlers and carriers to those persons responsible for the acts of their agents under section 9 of the Act.

*Section 6.* This section would add to section 10 of the Act authority for the Secretary to require intermediate handlers and carriers to make and retain records, either on existing forms already required by other Federal agencies, or, if such forms are not required, in such other manner as the Secretary may prescribe. The present requirement that the Secretary supply forms for records required to be kept by dealers, exhibitors, and research facilities would be eliminated.

*Section 7.* This section would extend the provisions of section 13 of the Act to empower the Secretary of Agriculture to promulgate humane standards for intermediate handlers and carriers for the handling of animals consigned by any person or any department, agency or instrumentality of the United States. It would also redesignate the present section, as amended, as subsection (a).

*Section 8.* This section would add to section 13 of the Act three additional subsections which would (1) prohibit transportation of any dog, cat, or other animal designated by the Secretary without a licensed veterinarian's certificate except in the case of defective animals required for research; (2) prohibit transportation of any dog, cat, or other animal designated by the Secretary less than eight weeks old or other age designated by the Secretary except to registered research facilities of defective animals needed for research; and (3) prohibit transportation of any animal on a C.O.D. basis unless the consignor guarantees the round-trip fare, care, and handling charges for any animal not claimed within 48 hours.

*Section 9.* This section would amend section 15 of the Act to require the Secretary to consult with the transportation regulatory agencies when establishing humane standards under section 13 of the Act and, in the case of air carriers, would give the Secretary of Transportation authority to disapprove any standard for reasons of flight safety.

*Section 10.* This section would amend section 16 of the Act to empower the Secretary to investigate intermediate handlers and carriers and to confiscate and destroy any animals suffering in their custody as a result of failure to comply with the Act.

*Section 11.* This section would revise section 19 of the Act to authorize the Secretary to assess administratively a civil penalty of not more than \$1,000 for each violation against any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale. The present provision which prevents the Secretary from instituting action for a civil penalty until after violation of an administrative cease and desist order based upon a prior violation would be eliminated. The provisions of the Act dealing with suspension or revocation of licenses would continue unchanged. Appeal would lie to the Courts of Appeals from any final order of the Secretary, and resort to the district courts is provided, if necessary, to enforce penalty assessments.



Finally, H.R. 5808 would require criminal violations to be prosecuted before U.S. Magistrates to the maximum extent practicable and would empower USDA attorneys to bring such prosecutions.

*Section 12.* This section repeals section 20 of the Act providing for the issuance of cease and desist orders against research facilities and such facilities would be subject to the revised civil penalty procedures contained in section 19 of the Act as revised.

*Section 13.* This section amends section 24 of the Act to establish the effective dates of the amendments made by H.R. 5808.

*Section 14.* This section would amend section 25 of the Act to require inclusion in the Secretary's annual report to Congress of recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation. The Committee intends that the Secretary consult with the Federal Aviation Administration and any other appropriate agency before arriving at such recommendations and conclusions.

*Section 15.* This section adds to the Act a new section 26 which makes it a crime subject to a fine of up to \$5,000 or imprisonment for up to one year, or both, to knowingly sponsor or abet an animal fighting venture in which animals were moved in interstate commerce or use the mails to promote any animal fighting venture. "Animal" is defined as any live bird, or any live dog or other mammal, except man.

#### S. 1941

On December 18, 1975, the Senate passed by voice vote S. 1941, which also would extend the Animal Welfare Act to require the humane treatment of live animals by carriers. However, under the Senate bill, the authorization of appropriations, and, therefore, the Act would expire the end of fiscal year 1978. The Senate bill does not address the problem of animal fighting ventures and contains a number of provisions different from those in H.R. 5808 relating to the humane treatment of animals in connection with their transportation. For example, the Senate would regulate all retail pet stores and add cold-blooded animals, birds, and horses used for testing, experimentation or exhibition to the class of animals protected by the Act, but remove all nonhuman primate mammals, except monkeys. Also, the Senate does not address the abuses committed by puppy mills and others offering for transportation animals less than eight weeks old. The Senate bill would give the Secretary of Transportation the power to designate the intermediate handlers who would be subject to the Act. Other federal agencies would have the power to veto recordkeeping requirements or recommendations for improvement of the aircraft environment propounded by the Secretary.

#### COMMITTEE CONSIDERATION

During the Second Session of the 93rd Congress, the Subcommittee on Livestock and Grains held nine days of hearings over a period of nearly two months on H.R. 15843 and H.R. 16738, both introduced by Chairman Foley, which would have brought carriers and intermediate handlers under the Act and also banned animal fighting ventures. The Subcommittee was impressed with the vigor and volume of the

support expressed for these bills by the numerous Congressmen, public officials, industry representatives, and humane organizations which appeared to testify. Unfortunately, Committee consideration came too late to make possible enactment of legislation in the 93rd Congress.

On April 9, 1975, Chairman Foley introduced H.R. 5808, which is substantially similar to the above-referenced bills, and hearings were held by the Subcommittee on Livestock and Grains on September 9 and 10, 1975. At the hearings Congressmen Joseph L. Fisher and G. William Whitehurst submitted statements in support of the bill and Congressman Robert McEwen testified in support of H.R. 3673 which would authorize the Secretary of Agriculture to promulgate standards for the humane transportation of horses in commerce. Testimony was also received from a number of Government agencies. Copies of letters reflecting the position of those agencies appear below. The Department of Agriculture testified in opposition to H.R. 5808 while supporting its objectives. On the other hand, the Civil Aeronautics Board testified in favor of the bill. The Department of Justice expressed the view that prohibition against animal fighting should be a matter for State law. Other agencies offered a number of technical suggestions. Private witnesses appearing at the hearing included representatives of various animal welfare organizations, pet industry organizations, veterinarian and laboratory animal organizations, the Air Transport Association and many individuals interested in animal welfare. The preponderance of the testimony supported the bill although there were a number of technical and perfecting amendments suggested by the witnesses.

The Subcommittee met for markup on October 8 and November 12, 1975, and, after making numerous strengthening amendments to the bill by voice vote, in the presence of a quorum, ordered it reported to the full Committee. The amendments adopted had largely been suggested by various witnesses in prior testimony before the Subcommittee. Some of the amendments related to the veterinarian certificate required to be provided with animals delivered to carriers and intermediate handlers. They made the requirement applicable to dogs and cats and other animals designated by the Secretary instead of automatically to all animals covered by the Act (such as rats, mice, guinea pigs) and also authorized the Secretary to exempt animals shipped to research facilities for testing or experimentation. A change was also adopted in the form of certificate so that instead of stating that the animal was sound and healthy it would provide that the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or other animals or endanger public health. In addition, the Subcommittee amended the record-keeping requirement so that a separate set of forms could not be required of the carrier or intermediate handlers if they were already maintaining a set of forms at the behest of another regulatory agency. In such case the Secretary was given authority to require the agency to include on the form information necessary to carry out the Act. The Subcommittee also made a number of changes in the penalty provisions to impose uniform civil penalty provisions on all persons regulated by the Act and also to specifically authorize criminal proceedings to be instituted before U.S. Magistrates.

The Subcommittee considered but rejected an amendment to include horses destined for slaughter under the humane treatment provisions of the bill.

On January 21 and 22, 1976, the full Committee took up the bill. By a rollcall vote of 20-16 it adopted an amendment to extend the provisions relating to animal fighting ventures to include live birds and then by a voice vote and in the presence of a quorum ordered the bill reported to the House with a recommendation that it do pass.

#### ADMINISTRATION POSITION

A number of government agencies submitted statements or testified on the provisions of H.R. 5808. Some of the agencies recommended changes in various provisions of the bill, a number of which were adopted by the Committee. The statements of the government agencies are set forth below:

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
Washington, D.C., September 25, 1975.

HON. THOMAS S. FOLEY,  
Chairman, Committee on Agriculture,  
House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your request for a report on H.R. 5808, a bill "To amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes."

This Department does not favor enactment of the bill.

The bill would amend the Laboratory Animal Welfare Act, as amended, to provide further measures to assure humane treatment of animals, as defined in the Act. The bill expands the scope of the Act to include "intermediate handlers" and "carriers," clarifies coverage with respect to intrastate commerce, and authorizes the Secretary of Agriculture to promulgate standards governing the transportation in commerce and related handling by such intermediate handlers and carriers of animals received from dealers or other persons or agencies regulated under the present Act. It also prohibits delivery by any person to an intermediate handler or carrier for transportation of certain animals before they reach a minimum age, and prohibits specified collect-on-delivery arrangements unless payment of transportation charges, including, where necessary, return transportation charges and other expenses incurred by the carrier are guaranteed in writing by the consignor. The bill requires that animals to be delivered by any dealer or other presently regulated person or agency to any intermediate handler or carrier for transportation in commerce be accompanied by a certificate issued by a licensed veterinarian certifying that the animals are sound and healthy. The bill provides for a civil penalty, not to exceed \$1,000, for violation of any of the provisions of section 13 of the Act, or any standard promulgated under the Act. It also requires consultation with the Secretary of Transportation in promulgating the standards governing air transportation of animals.

The bill adds a new section to the Act making it a criminal offense for any person to knowingly sponsor or exhibit an animal in a fighting venture to which any animal was moved in interstate or foreign

commerce. It also makes it unlawful for any person to sell, buy, transport or deliver, or receive for the purposes of transportation, in interstate or foreign commerce any dog or other animal for the purposes of having it participate in a fighting venture. In addition, the bill makes it unlawful to knowingly use the U.S. Postal Service or any interstate instrumentality to promote, or in any other manner further, such a venture.

There are available alternative measures which can achieve many of the objectives of the bill. These alternatives should be fully explored and tested before any additional legislative action is taken.

Representatives of the animal carriers, freight forwarders, animal dealers, humane societies, animal science professionals, State and Federal agencies, and other interested parties could collectively develop and agree on animal transportation standards and procedures that would be acceptable to all and which could be followed on a voluntary basis. An appropriate forum for this would be the National Council on Animal Transportation, which has representation from nearly all of the interested parties in animal transportation.

The Civil Aeronautics Board has initiated administrative proceedings relating to the rules and practices for the acceptance and carriage of live animals in domestic air freight transportation. Following these proceedings, the Department could provide guidelines which the interested and involved public and the animal carriers could use to provide a uniform base for transporting animals.

Another focal point for effective activity would be in the Interagency Committee on Live Animal Transportation formed at the recommendation of the House Committee on Government Operations. The original purpose of the Committee was to cover only air transportation of animals. Its charter could be broadened to include other forms of transportation, and its membership could be expanded to include other transportation regulatory agencies such as the Interstate Commerce Commission. The Interagency Committee held an organizational meeting on October 30, 1974. It was decided that rather than duplicate the efforts and information being assimilated by the Civil Aeronautics Board's administrative hearing, the Committee would wait until the information from the hearing could be assembled and summarized before determining a proper course of action. A meeting of the Committee will be held this year, subsequent to the CAB hearing, and improvement in the humane care and treatment of animals during transportation will be actively pursued.

Concerning the animal fighting provisions of H.R. 5808, the Department strongly opposes the holding of such events. However, we do not have the kind of trained manpower and other resources necessary to prohibit animal fights or arrest the involved persons. In our view, this is a proper responsibility of State and local law enforcement agencies and, with few exceptions, laws exist at that level, which would permit effective dealing with this problem.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD L. FELTNER,  
Assistant Secretary.

STATEMENT OF ARTHUR H. SIMMS, DEPUTY DIRECTOR, BUREAU OF ECONOMICS, CIVIL AERONAUTICS BOARD, BEFORE THE SUBCOMMITTEE ON LIVESTOCK AND GRAINS, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, SEPTEMBER 9, 1975

Mr. Chairman and Members of the Subcommittee, I am pleased to present the views of the Civil Aeronautics Board with respect to H.R. 5808, which would give the Secretary of Agriculture authority to promulgate standards governing the transportation in commerce, and the handling, care, and treatment in connection therewith, of certain live animals by all carriers.

The Board strongly endorses this legislation and believes that its passage would result in more humane treatment of animals transported by air.

At present, no single government agency has the authority, manpower, or expertise necessary for the establishment and enforcement of adequate standards for the humane transportation of animals by air. Instead, three government agencies—the Department of Agriculture, the Federal Aviation Administration, and the Board—have ill-defined and incomplete jurisdiction over air transportation of animals.

The Board itself does not have plenary power to issue regulations for the transportation of animals by air. The Board cannot prescribe regulations unless it first finds, on the basis of an evidentiary record, that the existing rules and practices of the carriers result in inadequate service or are otherwise unlawful. Moreover, the Board's staff does not have the expertise to develop all the rules which are required for the humane transportation of animals by air. In addition, we lack the nationwide resources and expertise necessary for effective enforcement in this area.

We would also like to emphasize that the Board's regulatory powers do not extend to shippers of live animals. We make this point because we believe that adequate regulation over the transportation of live animals by air must involve the shippers as well as the carriers. Many injuries and fatalities are directly related to inadequate packaging by shippers and the tendering of animals which are in poor health, even before transportation commences. In this regard, we are pleased that this legislation would expand the existing jurisdiction of the Department of Agriculture to include additional classes of persons involved in the commercial chain of animal shipments.

Despite the problems I have just described, the Board is presently engaged in an investigation concerning the rules and practices relating to the acceptance and carriage of live animals in domestic air freight transportation. Among other matters, this investigation includes an inquiry into carrier rules and practices regarding acceptance, packaging and documentation of animal shipments, as well as ground and flight handling, and the priority of carriage. We embarked on this investigation, aware of our severe handicaps, because we were convinced that serious problems existed and because it appeared that no other agency was attempting to deal with the problem. We hoped that the Board could serve as a forum where those with expertise could propose solutions. However, for the reasons I have previously outlined, the Board believes that the actions which it will ultimately be in a position

to take at the conclusion of this proceeding will fall short of a satisfactory solution to the problem of safe and humane transportation of animals. Such a solution can be achieved only through H.R. 5808 or similar legislation conferring plenary jurisdiction over the entire question to a single agency. In our judgment the Department of Agriculture, with its staff of veterinarians, is in the best position to establish and enforce rules in this area.

The Board does have two specific suggestions with respect to H.R. 5808.

First, under section 9 of the bill, the Secretary of Agriculture would be empowered to promulgate standards only for those classes of animals enumerated in section 2432(g) of the Laboratory Animal Welfare Act of 1966, as amended in 1970, which does not include many kinds of animals presently being transported by air. We would strongly urge that this provision be made applicable to all live animals.

We also suggest that section 11 be amended to require that the Secretary of Agriculture consult with the Board prior to promulgating standards. We believe that the expertise of the Board's staff in matters relating to aviation may be helpful to the Secretary in carrying out his duties under this legislation. In particular, our staff could assist in determining whether a proposed standard would result in conflicting regulations.

Mr. Chairman, the Board sincerely appreciates this opportunity to present its views on H.R. 5808. I will do my best to answer any questions the Committee may have.

DEPARTMENT OF JUSTICE,  
Washington, D.C., October 8, 1975.

HON. THOMAS S. FOLEY,  
Chairman, Agriculture Committee,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the Department's views on H.R. 5808, a bill "To amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes."

This bill would amend the Act of August 24, 1966, as amended, by providing numerous measures aimed at assuring humane treatment of certain animals. The provisions of the bill which are of particular interest to the Department of Justice are contained in sections 13 and 16.

Section 13(d) of the bill provides for the addition of a new paragraph (d) at the end of Section 19 of the Act, providing for the assessment by the Secretary of Agriculture of a civil penalty of not more than \$1,000 for each violation by any intermediate handler or carrier of any provision of Section 13 of the Act. It provides further for notice to the alleged offender and an opportunity for a hearing with respect to the alleged violation. The order of the Secretary assessing a penalty shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. These courts are granted exclusive jurisdiction under the Act to enjoin, set aside, suspend in whole or in part, or determine the validity of the Secretary's order. The provisions of 28 U.S.C. §§2341 and 2343 thru 2350 are made applicable to such appeals



and orders. This Section also authorizes the Secretary to compromise any such civil penalty and, upon failure of payment of the penalty assessed by a final order under this Section, requires the Secretary to request the Attorney General to institute a civil action in any appropriate United States District Court to collect the penalty.

Section 16(d) provides that any person who violates subsection (a), (b), or (c) thereof shall be fined not more than \$5,000 or imprisoned for not more than one year, or both, for each such violation. Subsection (a), (b), and (c), respectively, prohibit the knowing sponsorship or exhibition of an animal in any animal fighting venture to which any animal was moved in the interstate or foreign commerce; the selling, buying, transporting, or delivering of a dog or other animal for such purposes; or the use of the United States or any interstate instrumentality for promoting such animal fighting venture. Subsection (e) empowers the Secretary or any other person authorized by him to make such investigation as necessary to determine whether a violation has occurred or is in process and permits the entering into cooperative agreements in connection with the conduct of such investigation, with the Federal Bureau of Investigation, the Department of Treasury, or other law enforcement agencies of the United States, as well as state and local governmental agencies. This subsection further provides for the issuance of a warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this Section. Such warrants may be issued by any judge of the United States or a United States Commissioner or by a judge of any state court of record in the district where any animal sought is located.

Technically, the penalty provisions seem incompatible. For example, the maximum civil penalty is \$1,000 while the fine for criminal violations is \$5,000, in lieu of or in addition to a one year imprisonment provision. This seems high in comparison with other penalty provisions of this Act.

Aside from any technical infirmities with the bill, the Department strongly feels that prohibition against dog or animal fighting ventures should be a matter of state rather than federal law. Traditionally in our form of government the responsibility for the maintenance of law and order has been lodged with state and local authorities. Federal jurisdiction has been for the most part restricted to matters directly involving a function of the federal government or otherwise beyond the normal enforcement capability of such state or local authorities. There appears to be no sound basis for the view that federal intervention in this area could more effectively handle such investigations or have a more deterrent effect in preventing the type of offenses contained in H.R. 5808.

Concerning the various other provisions of the bill dealing with the humane treatment of animals, the Department defers to the Department of Agriculture.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

MICHAEL M. UHLMANN,  
Assistant Attorney General.

INTERSTATE COMMERCE COMMISSION,  
Washington, D.C., August 11, 1975.

HON. THOMAS S. FOLEY,  
Chairman, Committee on Agriculture,  
House of Representatives, Washington, D.C.

DEAR CHAIRMAN FOLEY: This replies to your request for our views on H.R. 5808, the "Animal Welfare Act Amendments of 1975."

The Animal Welfare Act, as found in 7 U.S.C. 2131 *et seq.*, provides that the Secretary of Agriculture shall establish regulations for the humane treatment of animals purchased, handled, sold, and transported by dealers to research facilities or exhibitors in interstate commerce. The Act further requires the licensing of dealers and exhibitors as well as the registration of research facilities. It is unlawful under the Act for any research facility to purchase any dog or cat from an unlicensed dealer. Records are required to be kept of all sales or transportation of animals by dealers, exhibitors, and research facilities. The Secretary has been granted investigatory powers and a violation could result in civil penalties or a criminal fine. Common carriers are specifically excluded from the Act.

The original purpose of the Animal Welfare Act was to regulate the supplying and treatment of animals being sold to research facilities. In 1966, Congress learned that many hundreds of animals were being supplied to such research facilities yearly. In order to meet the demand many inhumane dealers began to steal pets such as dogs and cats from their owners for resale. These animals often were ill-treated by the dealers and research facilities. The Animal Welfare Act was passed to curb these abuses and thefts of pets. *See*, 1966 U.S. Code Cong. and Adm. News, p. 2635.

This bill would create the Animal Welfare Act Amendments of 1975. The term "commerce" would be expanded to include transportation within the states. Also, the bill now will subject intermediate handlers, and carriers to the recordkeeping requirements. The Secretary will be given the further power to provide regulations regarding the proper treatment of animals being transported by carriers. The amendments will provide for civil penalties for violation of these regulations.

Section 5 of the bill defines the term "carrier" to mean the "operator of any airline, railroad, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire." Obviously, this definition will include a motor carrier transporting animals, however, for purposes of clarity, section 5(j) of the bill should be amended to include specifically motor common and contract carriers. Clearly, the intent of the bill is to cover motor transportation, and this amendment would remove any doubt as to its applicability. A significant portion of this traffic moves by motor carrier.

Section 10 adds new sections 13 (b), (c), and (d) to the Animal Welfare Act. New section 13(d), by prohibiting C.O.D. and similar shipping arrangements, except in certain circumstances, directly affects the rights and obligations of shippers and carriers under the Interstate Commerce Act. These types of shipping arrangements are prohibited unless the consigner guarantees in writing the payment of transportation charges including where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and

storage of any live creatures being transported by carriers. The amendments will provide for civil penalties for violation of these regulations.

Before attaching such conditions to C.O.D. traffic, no doubt the Subcommittee will compile an exhaustive record as to the need for such action, and, if such action is required, this Commission will cooperate by enforcing the partial ban on this traffic. Notwithstanding the proposed partial prohibition against C.O.D. and similar shipping arrangements, even if the shipment is prepaid there may arise instances in which the animals being shipped may be returned to the originating carrier or shipper because of the inability of the originating carrier to arrange for movement beyond its lines. Section 216(c) of the Interstate Commerce Act provides that motor common carriers may establish reasonable through routes and joint rates with other such carriers or other specified common carriers. If we had authority, which we have requested from Congress, to require the establishment by motor carriers of joint rates and through routes, the problem referred to above could be obviated.

Section 15 of the Act presently requires the Secretary to consult and cooperate with all Federal agencies concerned with the welfare of animals. Section 11 of the bill adds a provision requiring the Secretary to consult with agencies concerned with regulation of transportation. The bill specifically requires the Secretary to consult with the Secretary of Transportation who shall have the authority to disapprove any standard promulgated by the Secretary of Agriculture governing air transportation if he finds disapproval necessary for flight safety. A specific provision could be added granting the regulatory agencies the right to disapprove any standard which interferes with their statutory regulatory goals.

Section 19 of the Act is to be amended to allow the Secretary to assess a civil penalty of not more than \$1,000 for each violation. The violator will be given an opportunity to be heard but the Secretary's assessment shall be final unless an appeal is filed with the appropriate United States Courts of Appeals. The Attorney General is granted authority to institute a civil action to collect such penalty if not paid.

If amended, section 19 will present some problems. First, it establishes a maximum penalty of \$1,000 for each violation but provides for no minimum penalty although one is provided for in the original "28 Hour" statute (45 U.S.C. 71-74). A minimum penalty is desirable in order to prevent an administrator or judge from abusing his discretion in assessing a ridiculously low penalty. Second, the section states that each violation shall be a separate offense. It is not clear if a violation is one shipment or one inhumane act in the treatment of one animal in violation of the regulations of the Secretary. This point should be clarified.

We should also note that on sheet 11, lines 10-16, the draft bill seeks to define the terms "interstate commerce" and "foreign commerce." We would suggest that the definitions should specifically identify interstate commerce and foreign commerce in a manner similar to the definitions in section 203 of the Interstate Commerce Act (49 U.S.C. 303). Furthermore, under the present definition, it appears that while the proposed bill would govern the transportation of animals "from a foreign country into any State," it would exempt transportation "from a State for export to a foreign country."

Finally, the bill would add a new section 26 to the Animal Welfare Act which would prohibit certain activities in connection with animal fighting ventures. It would make it unlawful for any person knowingly to sponsor or exhibit an animal moved in interstate commerce in any animal fighting venture or knowingly to use the mails for the purpose of promoting such a venture. New section 26(b) would make it unlawful for any person to sell, buy, transport, deliver, or receive a dog or other animal for the purpose of having the animal participate in a fighting venture. The word "knowingly" which is used in delineating the other offenses is not included in proposed section 26(b). We believe that the word "knowingly" should be included in this section of the legislation. It would be unreasonably burdensome to require carriers to be informed of the purposes of the shipper in transporting the animal and would be unfair to the carriers to penalize them for performing these services when they had no knowledge of the purposes of the shipper.

In conclusion, the Commission has no objection to the enactment of H.R. 5808, if the above suggestions are adopted.

Thank you for the opportunity to comment upon this legislation.

Sincerely yours,

GEORGE M. STAFFORD, *Chairman.*

U.S. POSTAL SERVICE,  
LAW DEPARTMENT,  
Washington, D.C., May 15, 1975.

HON. THOMAS S. FOLEY,  
*Chairman, Committee on Agriculture, House of Representatives,*  
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of the Postal Service on H.R. 5808, the proposed "Animal Welfare Act Amendments of 1975." This bill would further amend the Federal Animal Welfare Act of 1966, as amended by the Animal Welfare Act of 1970 (7 U.S.C. §§ 2131-2155), to prescribe additional regulations and record-keeping requirements for commercial carriers of certain warm-blooded animals, and to prohibit certain animal fighting ventures.

The basic purpose of sections 1 through 15 of this legislation is to enhance the welfare of animals transported in interstate commerce for use in research facilities, or for exhibition purposes, or for use as pets. However, the proposed amendments, like the existing statutes, would not apply to: farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. 7 U.S.C. § 2132(g).

Since the only warm-blooded animals that may be carried in the mails are live day-old poultry, 39 C.F.R. § 124.3(c)(2)(ii), it is clear that transportation of such farm animals by mail would not be covered by this legislation. In our opinion, there is no need for such coverage, because the welfare of day-old poultry in the mails is insured by detailed Postal Service regulations which exhibit a high degree of sensitivity to that welfare. 39 C.F.R. § 124.3(c)(1)(i) through (xiv). We would oppose any amendment of the bill to apply the restrictions of 7 U.S.C. § 2131, *et seq.*, to the shipment of baby poultry from hatchery

to farm through the mail, which has been an important and highly-regulated function of the Postal Service for many years, or to otherwise limit the availability of this service to farmers and other rural Americans.

Section 16 of H.R. 5808 would add a new section 26 to the Federal Laboratory Animal Welfare Act imposing criminal penalties on those engaged in certain animal fighting ventures. We note that proposed section 26(c) would specifically make it unlawful for any person "to knowingly use the mail service of the United States Postal Service" for promoting or furthering an animal fighting venture. Proposed section 26(c) also contains language, suggested in our report on similar legislation in the last Congress, H.R. 16738, 93d Cong., 2d Sess. (1974), which would amend 39 U.S.C. § 3001(a), a postal mailability statute, to enable the Postal Service to seize and dispose of animal fighting publications and advertisements placed in the mails.

In order to avoid ambiguity and insure that this legislation, if enacted, is given full effect, we suggest that the language now contained in lines 15 through 18 on page 9 of H.R. 5808 be set forth as a separate section of H.R. 5808 and not as part of a new section of the Federal Laboratory Animal Welfare Act. This technical change will facilitate the codification of the mailability provision of H.R. 5808 and promote the effectiveness of Federal law prohibiting animal fighting ventures.

We are unable, with any degree of precision, or reasonable guaranty of accuracy, to estimate the costs of this legislation over the next five years. However, we note that the enactment of new criminal statutes invariably imposes additional investigatory, prosecutorial, and judicial costs on the criminal justice system. In most cases these costs must be met from the pool of available executive and judicial resources, sometimes detracting from the expeditious and thorough enforcement of previously existing criminal statutes. The exact costs of H.R. 5808 will depend upon a number of factors, including the number of illegal animal fighting operations, the degree of public support for enforcement of the law, and the ease with which clandestine animal fights can be conducted and detected. Obviously, these factors are exceedingly difficult to quantify.

As we indicated to you in our report on H.R. 16738, we believe that Congress is best equipped to decide whether it is desirable as a matter of public policy to apply the sanctions of Federal criminal law to those engaged in organized animal fighting activity, and whether there is adequate justification for expending the finite resources of Federal law enforcement agencies in this area. Accordingly, we do not oppose the enactment of legislation such as H.R. 5808.

W. ALLEN SANDERS,  
Assistant General Counsel,  
Legislative Division.

STATEMENT BY DONALD S. FREDRICKSON, M.D., DIRECTOR, NATIONAL INSTITUTES OF HEALTH BEFORE THE SUBCOMMITTEE ON LIVESTOCK AND GRAINS, HOUSE COMMITTEE ON AGRICULTURE, SEPTEMBER 9, 1975

Mr. Chairman and Members of the Committee: I am pleased to be here today to discuss the important issue of humane treatment and care of animals used in biomedical research. The National Institutes

of Health and the Department of Health, Education, and Welfare are appreciative of this Subcommittee's support for our continuing efforts to promote animal welfare, and we share with you the concern that all animals used in research receive proper handling and care.

As an agency charged by the Congress with responsibility for the conduct and support of biomedical research in order to improve the health of the American people, the National Institutes of Health has a special concern with animal care standards. The use of animals in research is an absolutely essential part of our efforts to fulfill this responsibility.

The final determination of the effectiveness of a treatment for cancer, or any other disease, can only be known when actual tests are conducted on human patients. When scientists have developed a new drug or surgical procedure which they feel might be useful, the potential hazards or adverse effects of such untried substances or procedures cannot always be predicted. Thus, in spite of large, and to some extent unknown, physiological differences between human beings and animals, scientists have found that in many cases the basic life processes of many animals are sufficiently similar to those of man so that by choosing an appropriate animal model, one may reach useful conclusions concerning the way drugs, surgery, or other therapy work without endangering human life.

It is because we have at best only partial answers to questions about man's complex biology that we are conducting research. Although we are doing all we can to refine other research procedures based on our ever-increasing source of knowledge, the use of laboratory animals remains one of our most important and vital resources in the fight against disease and illness.

Let me emphasize also that, because animals are so vital to our research enterprise, we recognize our moral obligation to make every effort possible to see to it that research animals are well cared for and treated humanely. Reinforcing this moral obligation is the practical consideration that only through the use of healthy laboratory animals can scientists obtain the accurate and reliable research results necessary to further knowledge and the progress of medical science.

Today, hundreds of thousands of people owe their health and their lives to medical research. Most of this research required using laboratory animals. The list of those who have benefited includes burn victims, those suffering from shock and serious injury, and victims of cancer. The giant strides in the conquest of poliomyelitis, for example, would have been impossible without the use of laboratory animals. Highly complex surgical procedures, such as the "blue baby" operations, artery and organ transplantations, and refinements in orthopedic surgery were based on experiments on animals. Every man, woman, and child who has had a vaccination; all who take prescription drugs for high blood pressure and other chronic illnesses; almost everyone who has ever received treatment for a serious medical problem owes such treatment to the tremendous advances in biomedical research which in some measure was based on the use of laboratory animals. And, of course, animals themselves have benefited from this research, since the veterinary practitioner applies the results of the same findings when treating pets and livestock.

In the United States, millions of animals are used in research annually. The National Institutes of Health alone uses approximately three-quarters of a million laboratory animals per year in its Bethesda laboratories and five million in the drug screening programs of the Division of Cancer Treatment of the National Cancer Institute.

Because healthy, well cared for animals are so important to our medical research programs, within the past few years we have taken a number of steps to promote the welfare of laboratory animals. In 1971, the National Institutes of Health issued a policy statement regarding the care and treatment of animals used in all of its sponsored research programs and activities. In 1973, the policy was strengthened and broadened to apply to the entire Department of Health, Education, and Welfare. It requires that institutions receiving funds from the Department submit in writing an assurance that they have established a mechanism for evaluating their animal care programs consistent with the standards established by the Animal Welfare Act (P.L. 89-544 as amended by P.L. 91-579) and the "Guide for the Care and Use of Laboratory Animals" [DHEW Publication No. (NIH) 74-23] written by the National Academy of Sciences—National Research Council. The policy also directs review groups to note any improper or inappropriate use of animals and requires that these issues be resolved before a grant or contract can be awarded.

In addition to taking steps to ensure that the present law regarding standards of animal care is carried out, the NIH also has an active animal resources program designed to increase and improve laboratory animal facilities and resources. Projects supported through this program include the development and maintenance of colonies of special research animals, assisting institutions in complying with statutory and policy requirements for care of laboratory animals, improvement of health care and examination of environmental requirements of laboratory animals, and the gathering and dissemination of information on research animals.

Since the passage of the Animal Welfare Act of 1970 (P.L. 91-579), the National Institutes of Health has invested over \$10 million in helping its grantees achieve the required standards of animal care. In addition, nearly \$2 million has been invested in training of people for animal resource programs. For our intramural research program in Bethesda, a new primate building incorporating larger, improved cages has been constructed at a cost of \$1.2 million.

I can assure you, Mr. Chairman, that we recognize our obligation to ensure that animals are used only where they are essential, and that those used are treated humanely not only in our own intramural program but throughout the biomedical research community.

Turning now to H.R. 5808, Mr. Chairman, the Department of Health, Education, and Welfare generally defers to the U.S. Department of Agriculture because it has the responsibility and expertise in the administration of animal transportation laws. However, we would like to speak to one particular feature of H.R. 5808 that is of concern to us. Section 10 would require that all animals delivered to, or received by, an intermediate handler or common carrier be accompanied by a veterinarian's certificate of health and soundness. We understand this is intended to eliminate a major problem with the shipment of unhealthy or unsound dogs and cats for the pet trade. As now written, the bill would include literally millions of mice, rats, and other com-

monly used laboratory animals bred under carefully controlled conditions and shipped by common carrier for use in research. A veterinarian's certificate would be a needless impediment to this commerce, and such a requirement could disrupt the flow of laboratory animals that are so vital to our continuing biomedical research effort.

We feel that much has been accomplished in the area of animal welfare. The existing legislation, administered by the USDA, has enhanced our efforts to achieve the goal of assuring that all animals be well cared for. The NIH and DHEW have worked closely with the USDA over the years in promulgating appropriate regulations and in coordinating efforts to execute the Animal Welfare Act, as amended.

In conclusion, let me assure you that we share the concern expressed by many about the humane treatment of animals. The NIH and DHEW stand willing and ready to work with the USDA and any other agencies concerned with the welfare of animals.

I am happy to have had this opportunity to discuss the efforts of the National Institutes of Health in this important area of concern. I would be pleased to answer any questions you may have.

STATEMENT OF JOSEPH A. FERRARESE, DEPUTY DIRECTOR, FLIGHT STANDARDS SERVICE, FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, BEFORE THE HOUSE COMMITTEE ON AGRICULTURE, SUBCOMMITTEE ON LIVESTOCK AND GRAINS, SEPTEMBER 9, 1975, ON H.R. 5808

Mr. Chairman and Members of the Subcommittee: I am Joseph A. Ferrarese, FAA Deputy Director of the Flight Standards Service. With me are Mr. Curtis A. McKay, Chief of the Flight Standards Air Carrier Division and Mr. Oscar Shienbrood of the Office of the Chief Counsel. The Department of Transportation appreciates this opportunity to appear before you today with respect to H.R. 5808, a bill, "To amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes."

On the merits of H.R. 5808, which concerns the amendment of legislation presently administered by the Department of Agriculture, we defer to that Department.

On August 7, 1974, the FAA appeared before this Committee to discuss the issues raised today. At that time, we advised the Committee that the Federal Aviation Administration would shortly issue rules relating to the carriage of animals aboard air carrier aircraft. On August 9, 1974, the FAA issued Amendment 121-111, "Stowage of Containers for Transport of Animals Aboard Aircraft" (See Exhibit 1). The rules were to become effective the following October 18. However, before that date arrived, we received a number of petitions to extend that compliance date to allow more time for aircraft modifications and to accommodate concerns expressed by members of the medical profession with the possible interruption of shipment of animals used for research purposes.

Based on those petitions, FAA issued Amendment 121-112 which extended the compliance date to February 18, 1975 (See Exhibit 2). This, however, proved to be less than enough time to accomplish the necessary work. FAA again received a number of petitions requesting a further extension of the rule for these and other reasons. FAA is-

sued Amendment 121-116 which again extended the effective date to October 18, 1975 (See Exhibit 3). Thus, the rules issued shortly after we last appeared before this Committee have been twice extended.

This summer, President Ford announced the Administration's intention to seek to accomplish regulatory reform, particularly with respect to extra burdens imposed by regulations. We are reviewing the FAA animal transportation rule, guided by that policy. We carefully considered the information submitted to us before the effective date of the FAA rule was extended. The effect of aircraft modifications that may be needed have generated more complex issues than those we anticipated, particularly with respect to stowage and cargo compartment environment.

The FAA lacks the expertise to develop standards for the temperature levels and air supply needed for different kinds of animals which may be carried aboard an aircraft. We also are not experts concerning the containers in which they are transported. We are concerned with the economic impact of these rules on the pet industry, the pet owner and the airlines. We are not in a position to make zoological or veterinary judgments. We are in the business of safety of flight and should continue to concentrate our resources in that direction. The FAA's concern and role in this area can be satisfied if it retains the final authority to assure that any action taken enhances or does not adversely affect safety of flight. In any event, we believe that regardless of any present division of authority it would not be appropriate for the FAA to undertake any comprehensive program for implementing or enforcing standards for the humane treatment of animals in air transportation.

Thank you, Mr. Chairman. We will be pleased to respond to any questions you may have.

#### CURRENT AND 5 SUBSEQUENT FISCAL YEAR COST ESTIMATE

Pursuant to clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee submits the following cost estimates regarding costs to be incurred by the Federal Government during the current and the five subsequent fiscal years as the result of the enactment of this legislation. The Department of Agriculture has estimated the additional cost to be incurred under the provisions of the bill relating to the humane treatment of animals to be approximately \$565,000, and for each additional year thereafter approximately \$385,000. It expressed the view that the first year would take a great deal of manpower and time to educate the carriers and intermediate handlers on requirements of the bill but that thereafter costs would be reduced because of increased compliance and education. Cost estimates by the Congressional Budget Office are set forth in the Budget Act Compliance section of the report.

The Congressional Budget Office concurred in the USDA cost estimate for the first year but expressed the view that the decline in costs estimated by USDA thereafter was not realistic. The Committee concurs that the expenses for the first year should not exceed the figures projected by USDA and CBO and believes that the expenses thereafter should be somewhere between the figures provided by USDA and CBO. It is of the view that increased education should, in fact, result in increased compliance and that economies in administration could be obtained through use of private veterinarians on a fee basis.

Insofar as the animal fighting venture provisions are concerned, the Committee did not receive any cost estimates from the USDA at the time of this report. CBO estimates the cost would be approximately \$398,000 during the first year of operation and added increased amounts in subsequent years because of normal salary increases. According to CBO the cost is particularly difficult to estimate and was based on a force of 20 investigators who would respond to individual complaints. The Committee is of the view that the cost to enforce the animal fighting venture provisions should not exceed the cost estimated by CBO.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4), of Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 5808 will have no significant inflationary impact on the national economy. Testimony was received that the veterinarian certificates may cost the producer from \$2 to \$5 per animal which would be reflected in the sale price of animals and that the environment of carriers and intermediate handlers may need to be changed at some expense to the carriers and handlers to meet the humane standards of the Act. On the other hand, requiring the humane transport of animals would insure against economic losses to research institutions such as NIH, to the pet industry, and to others that result from animals being shipped under unsafe and inhumane conditions.

It is the Committee's view that there would be no inflationary impact resulting from the prohibition against animal fighting ventures contained in the bill, except for the administrative costs involved. It is further the Committee's view that based on the testimony received at the hearings that the inflationary impact, if any, resulting from the bill would be outweighed by its significant benefits.

#### BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison prepared by the Director of the Congressional Budget Office under Clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

CONGRESS OF THE UNITED STATES,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, D.C., January 28, 1976.

#### COST ESTIMATE

1. Bill Number: H.R. 5808
2. Bill Title: Animal Welfare Act Amendments of 1976
3. Purpose of Bill: This bill would amend the Animal Welfare Act of 1966 which authorized the Secretary of Agriculture to establish regulations for the humane treatment of animals used for research,



exhibition, or as pets. Under the act, dealers, exhibitors, auctioneers and research facilities must meet certain standards. The amendments would expand the scope of the act to include those who transport animals for commercial purposes. The major provisions would: (1) authorize the promulgation of standards governing the transportation of animals, (2) require that all such animals be accompanied by a veterinarian's statement certifying the animal's good health, and (3) establish penalties for any violations. The bill would also make it a federal offense to promote or engage in dog or cockfighting when the animals have crossed state lines.

4. Budget Impact: Costs are incurred primarily as a result of the manpower requirements associated with the certification program, the enforcement of standards at airports and the investigation of animal fighting. The estimated impact on the federal budget is shown below.

BUDGET AUTHORITY AND OUTLAYS  
(In thousands of dollars)

	Transition quarter	1977	1978	1979	1980	1981
Enforcement of standards and certification.....	127	570	621	672	719	768
Investigation of animal fighting.....	89	398	433	469	501	536
Total.....	216	968	1,054	1,141	1,220	1,304

5. Basis of Estimates: *Enforcement of Standards and Certification*—Because nearly all (95%) of the animals transported for commercial purposes move by air, manpower costs were estimated only for airport surveillance and related activities. According to the USDA,<sup>1</sup> 115 airports receive shipments of animals. Thirty of these facilities are considered major shipping or transfer centers and it was assumed that most abuses would be detected by focusing the surveillance at these points. The monitoring of shipments licensed under the 1966 Act indicates that each of the 20 major airports need about 16 hours of inspection per week and that each of the 10 transfer stations requires 24 hours of attention.<sup>2</sup> Hence, the manpower requirement is 29,120 hours per year or 14.56 man-years. Most of the private animal welfare agencies contacted believe that the inspection personnel do not require advanced training and contend that veterinarians are needed only for technical support. Consequently, the estimate of salary cost was based on an inspection force consisting of one veterinarian for every four inspectors. The average USDA vet is a GS-12, step 4 or 5 (about \$21,500/year) and most inspectors are GS-7, step 9 (\$13,990/year). The manpower requirements, personnel mix and average salaries provide a basis for estimating the personal cost of surveillance in FY 1976.

The cost of processing violations is based on three factors: a first year workload of 250 cases, 9 hours of investigation per case and personnel at the GS-9, step 4 level (\$14,829/year).<sup>3</sup> The cost of the certification provision arises from the need to inform 3,000 private vets

<sup>1</sup> Animal Care Division, Animal and Plant Health Inspection Service.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

about federal standards and procedures. Briefings are normally conducted by a GS-12 veterinarian and the agency believes that each private veterinarian will require 8 hours of time per year. This time requirement seems high and was reduced to 6 hours for the cost estimate. The cost of this effort may decline over time.

Total cost of enforcement is the sum of surveillance, processing and violation manpower and the cost of overhead (15.5 percent of total cost).<sup>4</sup> Future costs were estimated using CBO projections of federal salaries.

It should be noted that the cost estimates are particularly sensitive to the number of airports inspected and the personnel mix. If all 115 airports are inspected, costs would increase from \$570,457 to \$933,666 in FY 1977. Raising the veterinarian force to 60 percent at 30 airports increases the cost by \$58,000.

*Investigation of Animal Fighting*—The cost of this program is exceedingly difficult to estimate because the Secretary is given considerable discretion. The estimate above is based on a force of about 20 GS-7 to GS-9 investigators who respond to complaints. This program would resemble other agency investigative activities. If the agency mounts a more rigorous effort, the cost could be much higher.

6. Estimate Comparison: The Animal and Plant Health Inspection Service believes the cost of enforcing the transportation standards would be \$565,000 during the first year and \$385,000 per year thereafter. That estimate is based on the cost of monitoring all 115 airports, a staff of veterinarians who perform 60 percent of the work, 8 hours of briefing time for each private vet and 1975 prices. It is assumed further that costs decrease 50 percent in the second six months and that the second year's costs will be one-third less than the first year's due to increased compliance and education. Such a decline in costs is not considered realistic. The agency made no adjustments for higher salary costs in the future and did not estimate the cost of the animal fighting program at the time of this report.

7. Previous CBO Estimate: No previous estimate.

8. Estimate Prepared By: Robert Gordon (225-5275).

9. Estimate Approved By:

JAMES L. BLUM,  
Assistant Director,  
Budget Analysis Division.

#### OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 5808, as amended.

No specific oversight activities, other than the hearings accompanying the Committee's consideration of H.R. 5808, as amended, and related bills were made by the Committee, within the definition of clause 2(b)(1) of Rule X of the House.

<sup>4</sup> Office of Management and Finance, USDA.

## CHANGES IN EXISTING LAW

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

## THE ANIMAL WELFARE ACT OF 1970

\* \* \* \* \*  
SEC. 2. When used in this Act—

(a) The term "person" includes any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity;

(b) The term "Secretary" means the Secretary of Agriculture of the United States or his representative who shall be an employee of the United States Department of Agriculture;

(c) The term "commerce" means trade, traffic, commerce, transportation among the several States, or between any State, territory, possession, or the District of Columbia or the Commonwealth of Puerto Rico, and any place outside thereof; or between points within the same State, territory, or possession, or the District of Columbia, or the Commonwealth of Puerto Rico, but through any place outside thereof; or within any territory, possession, or the District of Columbia;

(d) The term "affecting commerce" means in commerce or burdening or obstructing or substantially affecting commerce or the free flow of commerce, or having led or tending to lead to the inhumane care of animals used or intended for use for purposes of research, experimentation, exhibition, or held for sale as pets, by burdening or obstructing or substantially affecting commerce or the free flow of commerce;

(e) The term "research facility" means any school (except an elementary or secondary school), institution, or organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals affecting commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments: *Provided*, That the Secretary may exempt, by regulation, any such school, institution, organization, or person that does not use or intend to use live dogs or cats, except those schools, institutions, organizations, or persons, which use substantial numbers (as determined by the Secretary) of live animals the principal function of which schools, institutions, organizations, or persons, is biomedical research or testing, when in the judgment of the Secretary, any such exemption does not vitiate the purpose of this Act;

[(f) The term "dealer" means any person who for compensation or profit delivers for transportation, or transports, except as a common carrier, buys, or sells any animals whether alive or dead, affecting commerce, for research or teaching purposes or for exhibition purposes or for use as pets, but such term excludes any retail pet store except such

store which sells any animals to a research facility, an exhibitor, or a dealer;]

(f) *The term "dealer" means any person who, affecting commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sales of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—*

(i) *a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or*

(ii) *any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than \$500 gross income from the sale of other animals during any calendar year;*

(g) The term "animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warm-blooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet; but such term excludes horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber[; and]. *With respect to a dog, the term means all dogs including those used for hunting, security, or breeding purposes;*

(h) The term "exhibitor" means any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation, as determined by the Secretary; and such term includes carnivals, circuses, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and county fairs, livestock shows, rodeos, purebred dog and cat shows, and any other fairs or exhibitions intended to advance agricultural arts and sciences, as may be determined by the Secretary[.];

(i) *The term "intermediate handler" means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation affecting commerce; and*

(j) *The term "carrier" means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire.*

SEC. 3. The Secretary shall issue licenses to dealers and exhibitors upon application therefor in such form and manner as he may prescribe and upon payment of such fee established pursuant to section 23 of this Act: *Provided*, That no such license shall be issued until the dealer or exhibitor shall have demonstrated that his facilities comply with the standards promulgated by the Secretary pursuant to section

13 of this Act: *Provided, however*, That any retail pet store or other person who derives less than a substantial portion of his income (as determined by the Secretary) from the breeding and raising of dogs or cats on his own premises and sells any such dog or cat to a dealer or research facility shall not be required to obtain a license as a dealer or exhibitor under this Act. The Secretary is further authorized to license, as dealers or exhibitors, persons who do not qualify as dealers or exhibitors within the meaning of this Act upon such persons' complying with the requirements specified above and agreeing, in writing, to comply with all the requirements of this Act and the regulations promulgated by the Secretary hereunder.

SEC. 4. No dealer or exhibitor shall sell or offer to sell or transport or offer for transportation, affecting commerce, to any research facility or for exhibition or for use as a pet any animal, or buy, sell, offer to buy or sell, transport or offer for transportation, affecting commerce, to or from another dealer or exhibitor under this Act any animal, unless and until such dealer or exhibitor shall have obtained a license from the Secretary and such license shall not have been suspended or revoked.

SEC. 5. No dealer or exhibitor shall sell or otherwise dispose of any dog or cat within a period of five business days after the acquisition of such animal or within such other period as may be specified by the Secretary: *Provided*, That operators of auction sales subject to section 12 of this Act shall not be required to comply with the provisions of this section.

SEC. 6. Every research facility, *every intermediate handler, every carrier*, and every exhibitor not licensed under section 3 of this Act shall register with the Secretary in accordance with such rules and regulations as he may prescribe.

SEC. 7. It shall be unlawful for any research facility to purchase any dog or cat from any person except an operator of an auction sale subject to section 12 of this Act or a person holding a valid license as a dealer or exhibitor issued by the Secretary pursuant to this Act unless such person is exempted from obtaining such license under section 3 of this Act.

SEC. 8. No department, agency, or instrumentality of the United States which uses animals for research or experimentation or exhibition shall purchase or otherwise acquire any dog or cat for such purposes from any person except an operator of an auction sale subject to section 12 of this Act or a person holding a valid license as a dealer or exhibitor issued by the Secretary pursuant to this Act unless such person is exempted from obtaining such license under section 3 of this Act.

SEC. 9. When construing or enforcing the provisions of this Act, the act, omission, or failure of any person acting for or employed by a research facility, a dealer, or an exhibitor or a person licensed as a dealer or an exhibitor pursuant to the second sentence of section 3, or an operator of an auction sale subject to section 12 of this Act, *or an intermediate handler, or a carrier*, within the scope of his employment or office, shall be deemed the act, omission, or failure of such research facility, dealer, exhibitor, licensee, [or an operator of an auction sale as well as of such person.] *operator of an auction sale, intermediate handler, or carrier, as well as of such person.*

SEC. 10. Dealers and exhibitors shall make and retain for such reasonable period of time as the Secretary may prescribe, such records with respect to the purchase, sale, transportation, identification, and previous ownership of animals as the Secretary may prescribe [upon forms supplied by the Secretary]. Research facilities shall make and retain such records only with respect to the purchase, sale, transportation, identification, and previous ownership of live dogs and cats. *At the request of the Secretary, any regulatory agency of the Federal Government which requires records to be maintained by intermediate handlers and carriers with respect to the transportation, receiving, handling and delivery of animals on forms prescribed by the agency, shall require there to be included in such forms, and intermediate handlers and carriers shall include in such forms, such information as the Secretary may require for the effective administration of this Act. Such information shall be retained for such reasonable period of time as the Secretary may prescribe. If regulatory agencies of the Federal Government do not prescribe requirements for any such forms, intermediate handlers and carriers shall make and retain for such reasonable period as the Secretary may prescribe such records with respect to the transportation, receiving, handling and delivery of animals as the Secretary may prescribe.* Such records shall be made available at all reasonable times for inspection and copying by the Secretary.

SEC. 11. All animals delivered for transportation, transported, purchased, or sold, affecting commerce, by a dealer or exhibitor shall be marked or identified at such time and in such humane manner as the Secretary may prescribe: *Provided*, That only live dogs and cats need be so marked or identified by a research facility.

SEC. 12. The Secretary is authorized to promulgate humane standards and recordkeeping requirements governing the purchase, handling, or sale of animals, affecting commerce, by dealers, research facilities, and exhibitors at auction sales and by the operators of such auction sales. The Secretary is also authorized to require the licensing of operators of auction sales where any dogs or cats are sold, affecting commerce, under such conditions as he may prescribe, and upon payment of such fee as prescribed by the Secretary under section 23 of this Act.

SEC. 13. (a) The Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors. Such standards shall include minimum requirements with respect to handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, including the appropriate use of anesthetic, analgesic or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian of such research facilities, and separation by species when the Secretary finds such separation necessary for the humane handling, care, or treatment of animals. *The Secretary shall also promulgate standards to govern the transportation affecting commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or*



other person, or any department, agency, or instrumentality of the United States, for transportation affecting commerce. The Secretary shall have authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation affecting commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature and handling. In promulgating and enforcing standards established pursuant to this section, the Secretary is authorized and directed to consult experts, including outside consultants where indicated. Nothing in this Act shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to design, outlines, guidelines, or performance of actual research for experimentation by a research facility as determined by such research facility: *Provided*, That the Secretary shall require, at least annually, every research facility to show that professionally acceptable standards governing the care, treatment, and use of animals, including appropriate use of anesthetic, analgesic, and tranquilizing drugs, during experimentation are being followed by the research facility during actual research or experimentation.

(b) No dogs or cats, or additional kinds of classes of animals designated by regulation of the Secretary, shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation affecting commerce, or received by any such handler or carrier for such transportation from any such person, department, agency, or instrumentality, unless the animal is accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine, certifying that he inspected the animal on a specified date, which shall not be more than ten days before such delivery, and, when so inspected, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health: *Provided*, however, That the Secretary may by regulation provide exceptions to this certification requirement, under such conditions as he may prescribe in the regulations, for animals shipped to research facilities for purposes of research testing or experimentation requiring animals not eligible for such certification. Such certificates received by the intermediate handlers and the carriers shall be retained by them, as provided by regulations of the Secretary, in accordance with section 10 of this Act.

(c) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any person to any intermediate handler or carrier for transportation affecting commerce except to registered research facilities if they are less than eight weeks of age, or such other age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe ages different than eight weeks for particular kinds or classes of dogs, cats, or designated animals, for the purposes of this section, when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation affecting commerce.

(d) No intermediate handler or carrier involved in the transportation of any animal affecting commerce shall participate in any ar-

rangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges for any animal not claimed within a period of 48 hours after notice to the consignee of arrival of the animal, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of any such animals.

SEC. 14. Any department, agency, or instrumentality of the United States having laboratory animal facilities shall comply with the standards promulgated by the Secretary for a research facility under section 13. Any department, agency, or instrumentality of the United States exhibiting animals shall comply with the standards promulgated by the Secretary under section 13.

SEC. 15. (a) The Secretary shall consult and cooperate with other Federal departments, agencies, or instrumentalities concerned with the welfare of animals used for research, experimentation or exhibition, or administration of statutes regulating the transportation affecting commerce or handling in connection therewith of any animals when establishing standards pursuant to section 13 and in carrying out the purposes of this Act. Before promulgating any standard governing the air transportation and handling in connection therewith, of animals, the Secretary shall consult with the Secretary of Transportation who shall have the authority to disapprove any such standard if he notifies the Secretary, within thirty days after such consultation, that changes in its provisions are necessary in the interest of flight safety.

(b) The Secretary is authorized to cooperate with the officials of the various States or political subdivisions thereof in carrying out the purposes of this Act and of any State, local, or municipal legislation or ordinance on the same subject.

SEC. 16. (a) The Secretary shall make such investigations or inspections as he deems necessary to determine whether any dealer, exhibitor, intermediate handler, carrier, research facility, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provision of this Act or any regulation or standard issued thereunder, and for such purposes, the Secretary shall, at all reasonable times, have access to the places of business and the facilities, animals, and those records required to be kept pursuant to section 10 of any such dealer, exhibitor, intermediate handler, carrier, research facility, or operator of an auction sale. The Secretary shall promulgate such rules and regulations as he deems necessary to permit inspectors to confiscate or destroy in a humane manner any animal found to be suffering as a result of a failure to comply with any provision of this Act or any regulation or standard issued thereunder if (1) such animal is held by a dealer, (2) such animal is held by an exhibitor, (3) such animal is held by a research facility and is no longer required by such research facility to carry out the research, test, or experiment for which such animal has been utilized, [or] (4) such animal is held by an operator of an auction sale, or (5) such animal is held by an intermediate handler or a carrier.

(b) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on ac-

count 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 punished as provided under section 1111 and 1114 of title 18, United States Code.

(c) For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914 (38 Stat. 721-723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraph (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of Title II of the "Organized Crime Control Act of 1970" (62 Stat. 856; 18 U.S.C. 6001 et seq.), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person, firm, or corporation with respect to whom such authority is exercised. The Secretary may prosecute any inquiry necessary to his duties under this Act in any part of the United States, including any territory, or possession thereof, the District of Columbia or the Commonwealth of Puerto Rico. The powers conferred by said sections 9 and 10 of the Act of September 26, 1914, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any district court of the United States. 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 [sections 19(b) and 20(b)] section 19(c) of this Act.

SEC. 17. The Secretary shall promulgate rules and regulations requiring dealers, exhibitors, research facilities, and operators of auction sales subject to section 12 of this Act to permit inspection of their animals records at reasonable hours upon request by legally constituted law enforcement agencies in search of lost animals.

SEC. 18. REPEALED. (Pub. L. 91-579, December 24, 1970.)

SEC. 19. (a) If the Secretary has reason to believe that any dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provisions of this Act, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may make an order that such person shall cease and desist from continuing such violation, and if such person is licensed under this Act, the Secretary may also suspend such person's license temporarily, but not to exceed twenty-one days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred. Any dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, who knowingly fails to obey a cease and desist order made by the Secretary under this section, shall be

subject to a civil penalty of \$500 for each offense, and each day during which such failure continues, shall be deemed a separate offense.

(b) Any dealer, exhibitor, or operator of an auction sale aggrieved by a final order of the Secretary issued pursuant to subsection (a) of this section may, within sixty days after entry of such an order, seek review of such order in the United States court of appeals for the circuit in which such person has his principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, in accordance with the provisions of section 701-706 of title 5, United States Code, Judicial review of any such order shall be upon the record upon which the final determination and order of the Secretary were based.

(c) Any dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, who violates any provision of this Act shall, on conviction thereof, be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both. ]

(a) *If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provision of this Act, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed twenty-one days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.*

(b) *Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, that violates any provision of this Act, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action.*

(c) *Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, aggrieved by a final order of the Secretary issued pursuant to this section may, within sixty days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of sections 2341, 2343 through 2350*

of title 28, United States Code, and such Court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part) or to determine the validity of the Secretary's order.

(d) Any dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, who knowingly violates any provision of this Act shall, on conviction thereof, be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both. Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States Magistrates as provided in section 636 of title 28, United States Code, and sections 3401 and 3402 of title 18, United States Code, and may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture.

**SEC. 20.** (a) If the Secretary has reason to believe that any research facility has violated or is violating any provision of this Act or any of the rules, regulations, or standards promulgated by the Secretary hereunder and if, after notice and opportunity for hearing, he finds a violation, he may make an order that such research facility shall cease and desist from continuing such violation. Such cease and desist order shall become effective fifteen days after issuance of the order. Any research facility which knowingly fails to obey a cease-and-desist order made by the Secretary under this section shall be subject to a civil penalty of \$500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(b) Any research facility aggrieved by a final order of the Secretary, issued pursuant to subsection (a) of this Act, may within sixty days after entry of such order, seek review of such order in the United States court of appeals for the circuit in which such research facility has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, in accordance with the provisions of sections 701-706 of title 5, United States Code. Judicial review of any such order shall be upon the record upon which the final determination and order of the Secretary were based.]

**SEC. 21.** The Secretary is authorized to promulgate such rules, regulations, and orders as he may deem necessary in order to effectuate the purposes of this Act.

**SEC. 22.** If any provision of this Act or the application of any such provision to any person or circumstances shall be held invalid, the remainder of this Act and the application of any such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

**SEC. 23.** The Secretary shall charge, assess, and cause to be collected reasonable fees for licenses issued. Such fees shall be adjusted on an equitable basis taking into consideration the type and nature of the operations to be licensed and shall be deposited and covered into the Treasury as miscellaneous receipts. There are hereby authorized to be appropriated such funds as Congress may from time to time provide.

**SEC. 24.** The regulations referred to in section 10 and section 13 shall be prescribed by the Secretary as soon as reasonable but not later than six months from the date of enactment of this Act. Additions and amendments thereto may be prescribed from time to time as may be necessary or advisable. Compliance by dealers with the provisions

of this Act and such regulations shall commence ninety days after the promulgation of such regulations. Compliance by research facilities with the provisions of this Act and such regulations shall commence six months after the promulgation of such regulations, except that the Secretary may grant extensions of time to research facilities which do not comply with the standards prescribed by the Secretary pursuant to section 13 of this Act provided that the Secretary determines that there is evidence that the research facilities will meet such standards within a reasonable time. *Notwithstanding the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this Act, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence ninety days after promulgation of regulations under section 13 of this Act, as amended, with respect to intermediate handlers and carriers; and such regulations shall be promulgated no later than nine months after the enactment of the Animal Welfare Act Amendments of 1976; and compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of this Act, as so amended, and the regulations thereunder, shall commence upon the expiration of ninety days after enactment of the Animal Welfare Act Amendments of 1976: Provided, however, That compliance by all persons with paragraphs (b), (c), and (d) of section 13 of this Act, as so amended, shall commence upon the expiration of said ninety-day period. In all other respects, said amendments shall become effective upon the date of enactment.*

**Sec. 25.** Not later than March of each year following the enactment of the "Animal Welfare Act of 1970", the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a comprehensive and detailed written report with respect to—

(1) the identification of all research facilities, exhibitors, and other persons and establishments licensed by the Secretary under section 3 and section 12 of this Act;

(2) the nature and place of all investigations and inspections conducted by the Secretary under section 16 of this Act, and all reports received by the Secretary under section 13 of this Act; [and]

(3) recommendations for legislation to improve the administration of this Act or any provisions thereof.]; and

(4) recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation.

This report as well as any supporting documents, data, or findings shall not be released to any other persons, non-Federal agencies, or organizations unless and until it has been made public by an appropriate committee of the Senate or the House of Representatives.

**Sec. 26.** (a) It shall be unlawful for any person to knowingly sponsor, or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

(b) It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce any dog

or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

(c) It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture. Section 3001(a) of title 39, United States Code, is amended by adding immediately after the words "title 18" a comma and the words "or section 26 of the Federal Laboratory Animal Welfare Act".

(d) Any person who violates subsection (a), (b), or (c) shall be fined not more than \$5,000 or imprisoned for not more than one year, or both, for each such violation.

(e) The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States commissioner within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this paragraph (e). Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

(f) For purposes of this section—

(1) the term "animal fighting venture" means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment;

(2) the term "interstate or foreign commerce" means—

(A) any movement between any place in a State to any place in another State or between places in the same State through another State; or

(B) any movement from a foreign country into any State,

(3) the term "interstate instrumentality" means telegraph,

telephone, radio, or television operating in interstate or foreign commerce;

(4) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(5) the term "animal" means any live bird, or any live dog or other mammal, except man; and

(6) the conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of this Act as a dealer, exhibitor, or otherwise.

(g) The provisions of this Act shall not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this Act or any rule, regulation, or standard hereunder.

## DISSENTING VIEWS OF HONORABLE STEVE SYMMS

From a humanitarian point of view, H.R. 5808 carries every good intention in the world. However, the Committee has stretched the theory of centralist federalism to its snapping point by anointing the Secretary of Agriculture as a federal dog and chicken fighting czar.

Personally, I don't condone pitting dumb animals against each other in mortal combat. I suggest most Americans agree that the practice is barbaric; in the case of dogs, fighting has been outlawed in some 46 States. Likewise, most States and local jurisdictions do not favor either cocks or fighting bulls in the ring.

The question this Congress must address is whether what seems to be a fundamental local and State responsibility should now be made both a federal crime and a federal program. The Act defines as crimes the sponsoring, interstate movement, and use of the mails relative to dog, chicken and other animal fighting ventures. It imposes a maximum fine of \$5,000 and/or one year imprisonment for each violation.

In setting up the Secretary of Agriculture as czar over this new bureaucracy, it requires him to make investigations, and authorizes him to use the facilities and personnel of the Federal Bureau of Investigation, the U.S. Department of the Treasury, and other law enforcement agencies, whether federal, state, or local. Furthermore, the Secretary is authorized to enter into "cooperative agreements" with all these agencies, which undoubtedly would trigger expenditures to reimburse these agencies for their services. Authority is provided for search warrants and for seizing and holding animals.

I shudder to think of the mounting costs to the federal taxpayer as this program unfolds. We have crime in the streets in this nation—crimes that kill people, not dogs—and law enforcement agents claim they lack funds to cope adequately with lawlessness.

Funds are inadequate to meet long-range management needs on the public lands. For millions of Americans, this translates into unemployment and hunger.

Down at USDA, money is needed for agricultural research to meet our growing domestic and international food demands.

Secretary Butz has more to do with his time and budget than determine whether fighting dogs are local contenders or an interstate champ on the circuit. The question before the Committee was not whether this Congress favors the sport. The question is whether we can in a time of complex and divisive national issues afford to divert taxpayer money and the expertise of USDA and law enforcement officials to police animal fighting. The Department of Justice spoke to this point rather clearly in its report to the Committee dated October 8, 1975. It said, in part:

Aside from any technical infirmities with the bill, the Department strongly feels that prohibitions against dog or animal fighting ventures should be a matter of state rather than federal law. Traditionally in

our form of government the responsibility for the maintenance of law and order has been lodged with state and local authorities. Federal jurisdiction has been for the most part restricted to matters directly involving a function of the federal government or otherwise beyond the normal enforcement capability of such state or local authorities. There appears to be no sound basis for the view that federal intervention in this area could more effectively handle such investigations or have a more deterrent effect in preventing the type of offenses contained in H.R. 5808.

People across America are telling me, "We want less government, not more." We should order our priorities in a way that will maximize individual and state responsibility while turning to the federal government as a court of last resort. H.R. 5808 with its animal fighting venture totally reverses that order of priorities. It commits money the federal government does not have toward discharging a responsibility that should rest in the hands of the States.

STEVE SYMMS.



PROVIDING FOR THE CONSIDERATION OF H.R. 5808

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FEBRUARY 5, 1976.—Referred to the House Calendar and ordered to be printed

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Mr. SISK, from the Committee on Rules,  
submitted the following

**REPORT**

[To accompany H. Res. 1024]

The Committee on Rules, having had under consideration House Resolution 1024, by a nonrecord vote, report the same to the House with the recommendation that the resolution do pass.

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## ANIMAL WELFARE ACT AMENDMENTS OF 1976

MARCH 30, 1976.—Ordered to be printed

Mr. WEICKER, from the committee of conference,  
submitted the following

### CONFERENCE REPORT

[To accompany S. 1941]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1941) to amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House to the text and title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendments insert the following:

*That this Act may be cited as the "Animal Welfare Act Amendments of 1976".*

*SEC. 2. Section 1 of the Act of August 24, 1966 (80 Stat. 350, as amended by the Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C. 2131-2155) is amended to read as follows:*

*"SEC. 1. (a) This Act may be cited as the 'Animal Welfare Act'.*

*"(b) The Congress finds that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—*

*"(1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;*

*"(2) to assure the humane treatment of animals during transportation in commerce; and*

*"(3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.*



The Congress further finds that it is essential to regulate, as provided in this Act, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use."

SEC. 3. Section 2 of such Act is amended—

(1) by striking out subsection (c) and (d) thereof and inserting in lieu thereof the following:

"(c) The term 'commerce' means trade, traffic, transportation, or other commerce—

"(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia;

"(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1).

"(d) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;"

(2) by striking out the term "affecting commerce" in subsections (e) and (f) and inserting in lieu thereof "in commerce";

(3) by revising paragraph (f) thereof to read as follows:

"(f) The term 'dealer' means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—

"(i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or

"(ii) any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than \$500 gross income from the sale of other animals during any calendar year;"

(4) by deleting "; and" at the end of paragraph (g) and inserting in lieu thereof the following: ". With respect to a dog, the term means all dogs including those used for hunting, security, or breeding purposes;" and

(5) by deleting the period at the end of paragraph (h) and inserting a semicolon in lieu thereof.

SEC. 4. Section 2 of such Act is further amended by adding thereto two new paragraphs to read:

"(i) The term 'intermediate handler' means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce; and

"(j) The term 'carrier' means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire."

SEC. 5. Sections 4, 11, and 12 of such Act are amended by striking out "affecting commerce" and inserting in lieu thereof "in commerce".

SEC. 6. Section 6 of such Act is amended by inserting after the term "research facility", a comma and the term "every intermediate handler, every carrier,".

SEC. 7. Section 9 of such Act is amended by inserting after the term "section 12 of this Act," the term "or an intermediate handler, or a carrier," and by deleting the term "or an operator of an auction sale as well as of such person." at the end of section 9 and substituting therefor the following term: "operator of an auction sale, intermediate handler, or carrier, as well as of such person."

SEC. 8. Section 10 of such Act is amended by deleting the phrase "upon forms supplied by the Secretary" from the first sentence and by inserting between the second and third sentences thereof the following: "At the request of the Secretary, any regulatory agency of the Federal Government which requires records to be maintained by intermediate handlers and carriers with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, shall require there to be included in such forms, and intermediate handlers and carriers shall include in such forms, such information as the Secretary may require for the effective administration of this Act. Such information shall be retained for such reasonable period of time as the Secretary may prescribe. If regulatory agencies of the Federal Government do not prescribe requirements for any such forms, intermediate handlers and carriers shall make and retain for such reasonable period as the Secretary may prescribe such records with respect to the transportation, receiving, handling, and delivery of animals as the Secretary may prescribe."

SEC. 9. Section 13 of such Act is amended by designating the provisions thereof as subsection (a) and by adding, after the second sentence therein, new sentences to read: "The Secretary shall also promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or of any State or local government, for transportation in commerce. The Secretary shall have authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling."

SEC. 10. Section 13 of such Act, as amended, is further amended by adding at the end thereof new subsections (b), (c), and (d) to read:

"(b) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce, or received by any such handler or carrier for such transportation from any such person, department, agency, or instrumentality, unless the animal is accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine, certifying

that he inspected the animal on a specified date, which shall not be more than ten days before such delivery, and, when so inspected, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health: Provided, however, That the Secretary may by regulation provide exceptions to this certification requirement, under such conditions as he may prescribe in the regulations, for animals shipped to research facilities for purposes of research, testing or experimentation requiring animals not eligible for such certification. Such certificates received by the intermediate handlers and the carriers shall be retained by them, as provided by regulations of the Secretary, in accordance with section 10 of this Act.

“(c) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any person to any intermediate handler or carrier for transportation in commerce except to registered research facilities if they are less than such age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe different ages for particular kinds or classes of dogs, cats, or designated animals, for the purposes of this section, when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

“(d) No intermediate handler or carrier involved in the transportation of any animal in commerce shall participate in any arrangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges for any animal not claimed within a period of 48 hours after notice to the consignee of arrival of the animal, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of such animals.”

SEC. 11. Section 15 of such Act is amended by inserting after the term “exhibition” in the first sentence, a comma and the term “or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals”, and by adding the following at the end of the sentence: “Before promulgating any standard governing the air transportation and handling in connection therewith, of animals, the Secretary shall consult with the Secretary of Transportation who shall have the authority to disapprove any such standard if he notifies the Secretary, within 30 days after such consultation, that changes in its provisions are necessary in the interest of flight safety. The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it.”

SEC. 12 Subsection (a) of section 16 of such Act is amended by inserting the term “intermediate handler, carrier,” in the first sentence after the term “exhibitor,” each time the latter term appears in the sentence; by inserting before the period in the second sentence, a comma and the term “or (5) such animal is held by an intermediate handler

or a carrier”; and by deleting the term “or” before the term “(4)” in the second sentence.

(b) Subsection (c) of section 16 of such Act is amended by striking the words “sections 19(b) and 20(b)” in the last sentence and inserting in lieu thereof the words “section 19(c)”.

SEC. 13. Section 19 of such Act is amended to read as follows:

“(a) If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provision of this Act, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person’s license temporarily, but not to exceed 21 days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.

“(b) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, that violates any provision of this Act, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary’s order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person’s good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a civil penalty of \$500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

“(c) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, aggrieved by a final order of the Secretary issued pursuant to this section may, within 60 days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of section 2341, 2343 through 2350 of title 28, United States Code, and such court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary’s order.

“(d) Any dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, who knowingly violates any provision of this

Act shall, on conviction thereof, be subject to imprisonment for not more than 1 year, or a fine of not more than \$1,000, or both. Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States magistrates as provided in section 636 of title 28, United States Code, and sections 3401 and 3402 of title 18, United States Code, and, with the consent of the Attorney General, may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture."

Sec. 14. Section 20 of such Act is hereby repealed.

Sec. 15. Section 24 of such Act is amended by inserting the following at the end of the section: "Notwithstanding the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this Act, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence 90 days after promulgation of regulations under section 13 of this Act, as amended, with respect to intermediate handlers and carriers, and such regulations shall be promulgated no later than 9 months after the enactment of the Animal Welfare Act Amendments of 1976; and compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of this Act, as so amended, and the regulations thereunder, shall commence upon the expiration of 90 days after enactment of the Animal Welfare Act Amendments of 1976: Provided, however, That compliance by all persons with paragraphs (b), (c), and (d) of section 13 and with section 26 of this Act, as so amended, shall commence upon the expiration of said ninety-day period. In all other respects, said amendments shall become effective upon the date of enactment."

Sec. 16. Section 25 of such Act is amended by deleting from subsection (2) the word "and" where it last appears, deleting the period at the end of subsection (3) and inserting "; and" in lieu thereof, and by inserting after subsection (3) the following new subsection:

"(4) recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation."

Sec. 17. Such Act is amended by adding at the end thereof the following new section:

"Sec. 26. (a) It shall be unlawful for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

"(b) It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

"(c) It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the States of the United States.

"(d) Notwithstanding the provisions of subsections (a), (b), or (c) of this section, the activities prohibited by such subsections shall be unlawful with respect to fighting ventures involving live birds only

if the fight is to take place in a State where it would be in violation of the laws thereof.

"(e) Any person who violates subsection (a), (b), or (c) shall be fined not more than \$5,000 or imprisoned for not more than 1 year, or both, for each such violation.

"(f) The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this paragraph (f). Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

"(g) For purposes of this section—

"(1) the term 'animal fighting venture' means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term 'animal fighting venture' shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting;

"(2) the term 'interstate or foreign commerce' means—

"(A) any movement between any place in a State to any place in another State or between places in the same State through another State; or

"(B) any movement from a foreign country into any State;

"(3) the term 'interstate instrumentality' means telegraph, telephone, radio, or television operating in interstate or foreign commerce;

"(4) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

"(5) the term 'animal' means any live bird, or any live dog or other mammal, except man; and

"(6) the conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of this Act as a dealer, exhibitor, or otherwise.

"(h) (1) The provisions of this Act shall not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this Act or any rule, regulation, or standard hereunder.

"(2) Section 3001(a) of title 39, United States Code, is amended by adding immediately after the words 'title 18' a comma and the words 'or section 26 of the Animal Welfare Act'."

SEC. 18. Section 23 of such Act is amended by inserting immediately before the period at the end of the third sentence ": Provided, That there is authorized to be appropriated to the Secretary of Agriculture for enforcement by the Department of Agriculture of the provisions of section 26 of this Act an amount not to exceed \$100,000 for the transition quarter ending September 30, 1976, and not to exceed \$400,000 for each fiscal year thereafter".

SEC. 19. Section 14 of such Act is amended by inserting in the first sentence after the term "standards" the phrase "and other requirements".

In lieu of the amendment of the House to the title of the bill insert the following: "An Act to amend the Act of August 24, 1966, as amended, to increase the protection afforded animals in transit and to assure humane treatment of certain animals, and for other purposes."

And the House agree to the same.

WARREN G. MAGNUSON,  
WENDELL H. FORD,  
LOWELL P. WEICKER, JR.,  
*Managers on the part of the Senate.*

THOMAS S. FOLEY,  
W. R. POAGE,  
BOB BERGLAND,  
JERRY LITTON,  
JAMES WEAVER,  
TOM HARKIN,  
*Managers on the part of the House.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1941) to amend the act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying Conference report. The differences between the Senate bill and the House amendment and the substitute agreed to in Conference are noted in the following outline, except for conforming, clarifying, and technical changes:

### 1. TITLE OF BILL

#### *Senate bill*

The title of the Senate bill declares its purpose to be "to increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes."

#### *House amendment*

The title of the House amendment states its purpose to be "to amend the act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes."

#### *Conference substitute*

The Conference substitute adopts the title of the House amendment but incorporates the phrase "to increase the protection afforded animals in transit" from the title of the Senate bill.

### 2. CITATION OF AMENDMENTS

#### *Senate bill*

The Senate bill provides that this act may be cited as the Animal Welfare Amendments of 1975.

#### *House amendment*

The House amendment provides that this act may be cited as the Animal Welfare Act Amendments of 1976.

#### *Conference substitute*

The Conference substitute adopts the House provision.

### 3. SHORT TITLE OF ACT

#### *Senate bill*

The Senate bill provides that the act of August 24, 1966, as amended, may be cited is the "Animal Welfare Act."

#### *House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the Senate provision.

## 4. CONGRESSIONAL DECLARATION OF POLICY (SECTION 1 OF EXISTING LAW)

*Senate bill*

The Senate bill revises the congressional declaration of policy contained in section 1 of the present law and makes a congressional finding that animals and activities which are regulated under this act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this act is necessary to prevent and eliminate burdens upon such commerce.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the Senate provision.

## 5. DEFINITION OF COMMERCE (SUBSECTIONS 2(c) AND 2(d) OF EXISTING LAW)

*Senate bill*

The Senate bill strikes from the present law the definition of the terms "commerce" and "affecting commerce" and inserts in lieu thereof a new definition of the term "commerce" and a definition of the term "State" as used in the new definition of "commerce". These provisions would narrow the coverage of the existing law by excluding commerce between points within the same State, territory, or possession, etc., which passes through a point outside thereof and commerce within any territory, possession, or the District of Columbia, but would otherwise not limit the coverage of the statute.

*House amendment*

The House amendment contains no comparable provisions.

*Conference substitute*

The Conference substitute adopts the Senate provision with an amendment to carry forward from existing law into the new definition of the term "commerce" commerce between two points in the same State but through any place outside thereof, and commerce within any territory, possession, or the District of Columbia.

## 6. DEFINITION OF DEALER (SUBSECTION 2(f) OF EXISTING LAW)

*Senate bill*

The Senate bill amends the definition of the term "dealer" in the present law to add to those already covered by the definition persons who offer animals for sale, and also to include all retail pet stores. (Retail pet stores are not included in the definition of "dealer" under existing law unless they sell animals to research facilities, exhibitors, or dealers.)

*House amendment*

The House amendment does not disturb the coverage of retail pet stores under existing law. However, in addition to persons already

covered, it would add to the definition of the term "dealer" any person who negotiates the purchase or sale of animals. The House amendment would further amend the definition of the term "dealer" to include specifically any person who sells any wild animal, dog, or cat or who delivers for transportation, transports, buys, sells, or negotiates the purchase or sale of any dog for hunting, security, or breeding purposes. However, any person who grosses no more than \$500 in any calendar year from the sale of animals other than wild animals, dogs, or cats would be specifically excluded from the definition of the term "dealer".

*Conference substitute*

The Conference substitute adopts the House provision. However, the term "dealer" includes only those persons who deal in animals for compensation or profit. The term does not include a person who, on a casual basis purchases a dog or cat for his own use or enjoyment; nor does it include a person who upon occasion in isolated transactions sells a dog or cat.

## 7. DEFINITION OF ANIMAL (SUBSECTION 2(g) OF EXISTING LAW)

*Senate bill*

The Senate bill adds to the definition of the term "animal" in the present law cold-blooded animals, birds, and horses used for exhibition or as pets (horses used for research are included in the definition under existing law); and clarifies that the term "dog" as used in the definition of "animal" includes dogs used for hunting, security, or breeding purposes. The Senate bill also removes from the definition of "animal" all dead animals and any non-human primate mammal not embraced within the term "monkey".

*House amendment*

The House amendment makes no change in the definition of the term "animal" in the present law other than to clarify the fact that the term "dog" as contained in that definition means all dogs including those used for hunting, security, or breeding purposes.

*Conference substitute*

The Conference substitute adopts the House provision.

## 8. DEFINITION OF EXHIBITOR (SUBSECTION 2(h) OF EXISTING LAW)

*Senate bill*

The Senate bill amends the definition of the term "exhibitor" in the present law to limit its application to a person who exhibits animals in commerce to the public for compensation. The effect of this change would be to exclude from coverage under this definition persons exhibiting animals which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the House amendment.



9. NEW DEFINITIONS OF CARRIER AND INTERMEDIATE HANDLER (ADDED TO SECTION 2 OF EXISTING LAW)

*Senate bill*

The Senate bill adds to the definitions contained in section 2 of the present law a new term, "carrier", which would be defined as any person designated by the Secretary of Transportation who is subject to regulation by the ICC, CAB, or FMC or is engaged in the business of transporting animals for hire or providing services incidental to such transportation.

*House amendment*

The House amendment would add to the definitions contained in section 2 of the present law two new terms *viz*: "carrier" and "intermediate handler", neither of which would be subject to designation by the Secretary of Transportation. The term "carrier" would be defined to mean the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire and includes all terminal facilities controlled by such carriers. The term "intermediate handler" means persons other than dealers, research facilities, exhibitors, operators of auction sales, or carriers and includes express companies, forwarders, and other persons or facilities (including terminal facilities not controlled by carriers) which handle animal shipments.

*Conference substitute*

The Conference substitute adopts the House provision.

10. TERMINAL FACILITIES USED BY LICENSEES (SECTION 3 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 3 of the present law to deny a license to any dealer or exhibitor who uses terminal facilities which do not comply with the standards promulgated by the Secretary pursuant to section 13 of the Act.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the House amendment.

11. DELETION OF TERM "AFFECTING COMMERCE" (SECTIONS 4, 11 AND 12 OF EXISTING LAW)

*Senate bill*

The Senate bill strikes out the term "affecting commerce" and inserts in lieu thereof the term "in commerce" in sections 4 (requiring a valid license for dealers and exhibitors), 11 (requiring marking and identification of animals), and 12 (licensing of certain auction sales, etc.) of the act. These changes do not limit the coverage of the statute and are intended to bring these sections into line with the revised

declaration of policy and new definition of the term "commerce" contained in the Senate bill.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the Senate provision.

12. REGISTRATION (SECTION 6 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 6 of the present law to require registration of every carrier not licensed under section 3 of the act.

*House amendment*

The House amendment amends section 6 to require registration of every intermediate handler and every carrier not so licensed.

*Conference substitute*

The Conference substitute adopts the House provision.

13. RESPONSIBILITY FOR ACTS OF AGENTS (SECTION 9 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 9 of the present law to make carriers responsible for the acts of their agents or employees.

*House amendment*

The House amendment would amend section 9 to make intermediate handlers or carriers responsible for the acts of their agents or employees.

*Conference substitute*

The Conference substitute adopts the House provision.

14. RECORDKEEPING BY CARRIERS AND INTERMEDIATE HANDLERS (SECTION 10 OF EXISTING LAW)

Both the Senate bill and the House amendment amend section 10 of the present law to delete the requirement that the Secretary of Agriculture supply the forms upon which records required under the act are kept.

*Senate bill*

In addition, the Senate bill would amend section 10 to empower the Secretary of Agriculture, subject to the approval of every other Federal agency which requires carriers to keep records, to require carriers to keep records with respect to the transportation, receiving, handling, and delivering of animals. The Senate bill would also require any such records to be made available at all reasonable times for inspection and copying by the Secretary. (A comparable provision already appears in section 10).

*House amendment*

The House amendment would require any Federal regulatory agency which requires intermediate handlers and carriers to keep records with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, to require inclusion in such forms, and intermediate handlers and carriers would be required to include, information which the Secretary requests be required for effective administration of the act. Such information shall be retained by such agencies and intermediate handlers and carriers for such reasonable period of time as the Secretary may prescribe. The Secretary would be empowered to prescribe recordkeeping requirements and reasonable periods of record retention for intermediate handlers and carriers not required by other Federal regulatory agencies to keep records with respect to the transportation, receiving, handling, and delivery of animals.

*Conference substitute*

The Conference substitute adopts the House provision.

15. HUMANE STANDARDS FOR CARRIERS AND INTERMEDIATE HANDLERS  
(SECTION 13 OF EXISTING LAW)

Both the Senate bill and the House amendment designate section 13 of the present law as subsection "(a)".

*Senate bill*

The Senate bill amends the section to extend application of the humane standards promulgated by the Secretary to any terminal facilities used by a carrier subject to the act and also to the facilities of auction sales licensed under section 12 of the act and to the facilities of persons not qualifying as dealers or exhibitors who may be licensed under section 3 of the act.

*House amendment*

The House amendment would amend the section by inserting two new sentences which would require the Secretary to promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States, for transportation in commerce. (As noted below in No. 16, the Senate bill would add as subsection (b) of section 13 a comparable provision which is slightly broader in that it would apply also to animals consigned by State or local government agencies.) The Secretary would be empowered to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment to make clear that the humane standards promulgated by

the Secretary apply in the case of animals consigned by any department, agency, or instrumentality of any State or local government.

16. HUMANE STANDARDS AND VETERINARY CERTIFICATES  
(NEW SUBSECTION 13(b))

*Senate bill*

The Senate bill adds to section 13 of the act a new subsection "(b)" which empowers the Secretary to promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by carriers, of animals consigned by any dealer, research facility, owner of a pet, exhibitor, operator of an auction sale, department, agency, or instrumentality of the Federal Government or of any State or local government or other person. (As noted above in No. 15, the House amendment contains a comparable but slightly less comprehensive provision.) Such standards must be designed to assure the safe transportation in commerce of all animals received in healthy condition, and may include a requirement that no animal of a designated kind shall be delivered to or received by a carrier for transportation in commerce unless it is accompanied by the certificate of an accredited veterinarian attesting that he inspected the animal within the time interval he specifies and that, when so inspected, such animal appeared to be free of any infectious disease or physical abnormality which might endanger such animal or other animals during transportation in commerce. The Secretary may by regulation establish the time interval at which the certificate shall be issued and require that it be retained by the receiving carrier for a reasonable period of time.

*House amendment*

The House amendment would add to section 13 of the act a new subsection (b) which would provide that no dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce (or be received by such intermediate handler or carrier for such transportation) unless the animal is accompanied by the certificate of a licensed veterinarian certifying that he inspected the animal on a specific date not more than 10 days before such delivery at which time the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health. The House amendment differs from the provision in the Senate bill in that, in the House amendment, the veterinary certificate requirement is made mandatory, except for certain animals shipped to research facilities. The Senate bill leaves veterinary certificate requirements to the discretion of the Secretary of Agriculture. The House amendment also requires that the veterinary certificate include a statement that public health is not endangered, a provision not found in the Senate bill. The Secretary could by regulation provide conditional exceptions to the certification requirement for animals ineligible for such certificates when such animals are shipped to research facilities

for purposes of research, etc., requiring such animals. The Secretary would be empowered to prescribe the period of retention of veterinary certificates in regulations promulgated in accordance with section 10 of the act.

*Conference substitute*

The Conference substitute adopts the House provision.

17. AGE LIMITATIONS (NEW SUBSECTION 13(c))

*Senate bill*

The Senate bill contains no provision respecting the age at which animals may be transported.

*House Amendment*

The House amendment would add to section 13 of the act a new subsection (c) which would prohibit delivery of any dogs, cats, or additional kinds or classes of animals designated by regulation of the Secretary, by any person to any intermediate handler or carrier for transportation in commerce, except to registered research facilities, if they are less than 8 weeks of age, or such other age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe ages different than 8 weeks for particular kinds or classes of dogs, cats, or designated animals when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which requires the Secretary of Agriculture to determine the minimum age at which dogs, cats, or other animals designated by the Secretary may be delivered for transportation in commerce. The Secretary would, thus, also have discretion, subject to such standards and regulations as he might prescribe, to permit transportation of animals with their litters.

18. C.O.D. TRANSPORTATION OF ANIMALS (NEW SUBSECTION 13(c) OR 13(d))

*Senate bill*

The Senate bill adds to section 13 of the act a new subsection "(c)" which prohibits any carrier from transporting any animal where the fare or other charges (including the cost of the animal) are to be collected upon delivery unless the consignor guarantees in writing the payment of transportation charges, including return transportation and the out-of-pocket expenses incurred by the carrier in handling any animal not claimed upon delivery. Return transportation shall be permitted by the carriers after 24 hours.

*House amendment*

The House amendment would add to section 13 of the act a new subsection "(d)" containing similar provisions. It would prohibit any intermediate handler or carrier from receiving for transportation or transporting in commerce any animal where the cost of either the

animal or its transportation is to be collected upon delivery unless the consignor guarantees in writing the payment of round-trip transportation charges and the carrier's out-of-pocket expenses for care of any animal not claimed within 48 hours after notice to the consignee of arrival of the animal.

*Conference substitute*

The Conference substitute adopts the House provision.

19. FEDERAL RESEARCH FACILITIES TO DEMONSTRATE COMPLIANCE (SECTION 14 OF EXISTING LAW)

*Senate bill*

The Senate bill makes no change in section 14 of the act which requires Federal agencies with animal laboratory facilities to comply with the standards promulgated by the Secretary for research facilities under section 13 of the act.

*House amendment*

The House amendment would amend section 14 of the act to extend to such Federal agencies the requirement presently imposed by the act upon other research facilities to show the Secretary of Agriculture at least annually that professionally acceptable standards governing the care, treatment, and use of animals are being followed.

*Conference substitute*

The Conference substitute adopts the House provision.

20. CONSULTATION ON HUMANE STANDARDS WITH FEDERAL REGULATORY AGENCIES (SECTION 15 OF EXISTING LAW)

*Senate bill*

The Senate bill adds to section 15 of the act a new subsection "(c)" which requires the Secretary of Agriculture to consult and cooperate with the Secretary of Transportation, the Administrator of the FAA, and the Chairmen of the CAB, ICC, and FMC with respect to the establishment and enforcement of humane standards for animals in the course of their transportation in commerce and in terminal facilities prior to and after such transportation. In the case of air transportation and related handling of animals, the Secretary of Agriculture is required, before promulgating any standard, to consult with the Secretary of Transportation and the Administrator of the FAA who in the interest of flight safety may disapprove any such standard within 30 days after consultation. The ICC, CAB, and FMC are required to take such action as is appropriate to implement the standards established by the Secretary. (This last provision has no counterpart in the House amendment.)

*House Amendment*

The House amendment would add to subsection (a) of section 15 of the act a similar requirement. It provides that the Secretary consult with other Federal departments, agencies, or instrumentalities concerned with administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals.



Before promulgating any standard governing the air transportation and handling in connection therewith of animals, the Secretary of Agriculture would be required to consult with the Secretary of Transportation (but not also with the Administrator of the FAA as in the Senate bill) who could within 30 days thereafter disapprove any such standard for reasons of flight safety.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which provides that the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it.

21. INVESTIGATION OF AND SEIZURE OF ANIMALS FROM CARRIERS AND INTERMEDIATE HANDLERS (SUBSECTION 16(a) OF EXISTING LAW)

*Senate bill*

The Senate bill amends subsection (a) of section 16 of the act to empower the Secretary to investigate and inspect the records of carriers, and to confiscate or destroy in a humane manner any animal held by a carrier which is found to be suffering as a result of a failure to comply with any provision of the act or any regulation or standard issued thereunder. In addition, a new sentence would be added to paragraph (a) authorizing United States Attorneys to prosecute all criminal violations of the act reported by the Secretary and to invite civil actions to enforce orders of, and to recover all civil penalties assessed and reported by the Secretary, or which come to their notice or knowledge by other means. (This requirement is contained in 28 U.S.C. 547.)

*House amendment*

The House amendment would amend subsection (a) of section 16 of the act to empower the Secretary to investigate and inspect the records of intermediate handlers and carriers and also to confiscate or destroy in a humane manner any animal held by an intermediate handler or carrier which is found to be suffering as a result of a failure to comply with any provision of the act or of the regulations or standards issued thereunder.

*Conference substitute*

The Conference substitute adopts the House provision.

22. GRANT OF IMMUNITY TO OBTAIN TESTIMONY (SUBSECTION 16(c) OF EXISTING LAW)

*Senate bill*

The Senate bill strikes from subsection (c) of section 16 of the act the power of the Secretary of Agriculture to obtain testimony by granting immunity under title II of the Organized Crime Control Act of 1970.

*House amendment*

The House amendment contains no comparable provision. However, the House amendment would make a technical amendment in subsec-

tion (c) of section 16 to accommodate another amendment made by the House to section 19 of the act.

*Conference substitute*

The Conference substitute adopts the House provision.

23. CEASE AND DESIST ORDERS—CIVIL PENALTIES (SECTION 19 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 19 of the act to include carriers among the categories of persons against whom the Secretary may issue a cease and desist order and to make carriers subject to suit by the United States for a civil penalty of \$500 for each violation of a cease and desist order. The district courts of the United States would be specifically authorized to enforce cease and desist orders against dealers, exhibitors, carriers, or operators of auction sales. (A comparable provision is already contained in section 16(c) of the act.) Carriers would be able to secure judicial review of cease and desist orders in the Courts of Appeals. Carriers would be subject to criminal penalties for violation of any provision of the act. However, the criminal penalty paragraph would be amended to authorize prosecution only for "knowing" violations by any dealer, exhibitor, carrier or operator of an auction sale, and the maximum term of imprisonment would be reduced from 1 year to 6 months.

The Senate bill also adds to section 19 of the act two new subsections. Subsection "(d)" would, in addition to the civil penalty provided for violation of a cease and desist order, empower the Secretary to impose an administrative civil penalty of not more than \$2,000 for each violation of the act or regulations. No specific provision is made for appeal from the assessment by the Secretary of a civil penalty. Subsection "(e)" would permit any action including actions for criminal or civil penalties under section 19 of the act to be brought before a United States magistrate in any judicial district in which such person is found.

*House amendment*

The House amendment would revise section 19 of the act to delete the provisions which limit the Secretary to issuing cease and desist orders against violators and require him to wait for subsequent violation of the cease and desist order before requesting the Attorney General to bring suit for a civil penalty of \$500. Instead, the Secretary would be authorized, after notice and opportunity for a hearing, to assess administratively a civil penalty of not more than \$1,000 for each violation against any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale who violates any provision of the act or regulations. Orders assessing civil penalties would be appealable to the United States Courts of Appeals. In the event of failure to pay a civil penalty, the Secretary would be authorized to request the Attorney General to bring suit to collect the penalty in U.S. district court in any judicial district in which the defaulting violator is found, or resides, or transacts business. Such courts would be given jurisdiction to hear such actions.

The House amendment would not subject intermediate handlers or carriers to criminal penalties but would limit prosecution against

dealers, exhibitors, and operators of auction sales to violations committed "knowingly" and provides that prosecution of criminal violations be brought before United States magistrates to the maximum extent practicable. With the consent of the Attorney General, such prosecution could be handled both before the magistrate and, upon appeal to district court, by attorneys of the United States Department of Agriculture.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which empowers the Secretary, when assessing an administrative civil penalty, to issue a cease and desist order and provides for judicial assessment of a civil penalty of \$500 for knowing violation of such a cease and desist order, and each day such violation continues is a separate offense.

24. CIVIL PENALTIES FOR RESEARCH FACILITIES (SECTION 20 OF EXISTING LAW)

*Senate bill*

The Senate bill makes no change in section 20 of the act, which provides for cease and desist orders and civil penalties against research facilities.

*House amendment*

The House amendment repeals section 20. As noted above, the House amendment deletes those provisions of the existing law which limit the Secretary to issuing cease and desist orders. Section 20 differs from section 19 of the existing law only insofar as it affords research facilities notice and opportunity for hearing prior to issuance of a cease and desist order and gives research facilities 15 days to comply with such an order. These privileges are not accorded to dealers, exhibitors, or operators of auction sales under section 19. The House amendment includes research facilities under section 19 and extends the opportunity for notice and hearing to all persons subject to the section.

*Conference substitute*

The Conference substitute adopts the House provision.

25. ORAL HEARING REQUIRED FOR RULEMAKING (SECTION 21 OF EXISTING LAW)

*Senate bill*

The Senate bill would amend section 21 of the act, which confers rulemaking authority on the Secretary, to require transcribed oral hearings prior to issuance by the Secretary of regulations relating to recordkeeping requirements under section 8 of the act or standards under subsections (a) and (b) of section 10. (The reference should be to sections 10 and 15 of the act which are amended by sections 8 and 10 of the Senate bill.)

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the House amendment.

26. APPROPRIATIONS (SECTION 23 OF EXISTING LAW)

*Senate bill*

The Senate bill strikes from section 23 of the act the general authorization of appropriations and substitutes therefor a new section 26 at the end of the act which would authorize appropriations of not to exceed \$4 million for the fiscal year ending June 30, 1976; not to exceed \$1 million for the transition quarter ending September 30, 1976; and not to exceed \$4 million for the fiscal years ending September 30, 1977, and September 30, 1978. New authorizations would be required for succeeding fiscal years.

*House amendment*

The House amendment would add to the general authorization of appropriations in section 23 of the act a proviso which would limit, to \$100,000 for the transition quarter and \$400,000 for each fiscal year thereafter, appropriations for enforcement of section 26 (animal fighting ventures) added to the act by the House amendment. In addition, the House amendment contains a separate section limiting to \$100,000 for the transition quarter and to \$600,000 for each fiscal year thereafter, appropriations to implement and administer the provisions of the Animal Welfare Act Amendments of 1976, other than section 26.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which deletes the \$600,000 authorization ceiling on appropriations to implement those sections of these amendments which relate to humane treatment of animals in commerce, but retains the \$400,000 authorization ceiling imposed by the House on appropriations to enforce the animal fighting section.

27. EFFECTIVE DATE (SECTION 24 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 24 of the act to require the Secretary to prescribe regulations affecting carriers not later than 9 months after enactment and to require carriers to comply with the provisions of the act and regulations 90 days thereafter.

*House amendment*

The House amendment amends section 24 of the act (1) to require compliance by intermediate handlers and carriers with the provisions of the act, as amended, which relate to them to commence 90 days after promulgation of regulations under section 13 of the act, as amended, which shall be not later than 9 months after enactment; (2) to require compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of the act, as amended, and the implementing regulations 90 days after enactment; and to require compliance by all persons with the veterinary certificate, young animal, and C.O.D. amendments to section 13 of the act 90 days after enactment. All other amendments, principally section 26 (animal fighting ventures), would become effective upon the date of enactment.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which makes new section 26 of the act (animal fighting ventures) effective 90 days after enactment of these amendments.

## 28. ANNUAL REPORT TO CONGRESS (SECTION 25 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 25 of the act to require the Secretary of Agriculture to include in his annual report to the Congress recommendations and conclusions concerning flight safety, including the aircraft, its environment, or equipment as they relate to the carriage of live animals in air transportation, but only those recommendations and conclusions which have been approved by the Secretary of Transportation, the Administrator of the FAA, and the Chairman of the CAB.

*House amendment*

The House amendment would amend section 25 of the act to require the Secretary to include in his annual report to the Congress recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation.

*Conference substitute*

The Conference substitute adopts the House provision.

## 29. ANIMAL FIGHTING (NEW SECTION 26)

*Senate bill*

The Senate bill contains no provisions relating to animal fighting ventures.

*House amendment*

The House amendment adds to the act a new section 26 which would subject to a fine of not more than \$5,000 or imprisonment for not more than 1 year, or both, any person who knowingly (a) sponsors or exhibits an animal in any fighting venture to which any animal was moved in interstate or foreign commerce, (b) sells, buys, transports, or delivers to another person or receives from another person for purposes of transportation in interstate or foreign commerce any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture, or (c) uses the U.S. mails or any interstate instrumentality for purposes of promoting or furthering an animal fighting venture held within the United States. The Secretary of Agriculture would be authorized to make such investigations as he deems necessary and to enlist the assistance of the FBI, Treasury, or other Federal, State or local law enforcement agencies. The provisions of this new section would not supersede or otherwise invalidate any State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict. For purposes of this new section of the act, the term "animal" would be defined to mean any live bird, or any live dog or other mammal, except man.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which provides that the activities prohibited by subsections (a), (b), or (c) of new section 26 of the act shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof. The section does not apply to export of live birds to foreign countries nor to interstate shipment of live birds for breeding purposes. Game fowl publications would be unaffected except that advertising of fights involving live birds would be prohibited except in those instances where such fights are to be held in a State or territory where they are not unlawful.

WARREN G. MAGNUSON,

WENDELL H. FORD,

LOWELL P. WEICKER, Jr.,

*Managers on the Part of the Senate.*

THOMAS S. FOLEY,

W. R. POAGE,

BOB BERGLAND,

JERRY LITTON,

JAMES WEAVER,

TOM HARKIN,

*Managers on the Part of the House.*

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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

DATE: 4-16-76

TO: Bob Linder

FROM: Jim Frey

Attached is the House Conf.  
Rept. on S. 1941. Please have it  
included in the enrolled bill file.  
Thanks.

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## ANIMAL WELFARE ACT AMENDMENTS OF 1976

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MARCH 29, 1976.—Ordered to be printed

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Mr. FOLEY, from the committee of conference,  
submitted the following

### CONFERENCE REPORT

[To accompany S. 1941]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1941) to amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House to the text and title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendments insert the following:

*That this Act may be cited as the "Animal Welfare Act Amendments of 1976".*

*Sec. 2. Section 1 of the Act of August 24, 1966 (80 Stat. 350, as amended by the Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C. 2131-2155) is amended to read as follows:*

*"Sec. 1. (a) This Act may be cited as the 'Animal Welfare Act'.*

*"(b) The Congress finds that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—*

*"(1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;*

*"(2) to assure the humane treatment of animals during transportation in commerce; and*

*"(3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.*

The Congress further finds that it is essential to regulate, as provided in this Act, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use."

SEC. 3. Section 2 of such Act is amended—

(1) by striking out subsection (c) and (d) thereof and inserting in lieu thereof the following:

"(c) The term 'commerce' means trade, traffic, transportation, or other commerce—

"(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia;

"(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1).

"(d) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;"

(2) by striking out the term "affecting commerce" in subsections (e) and (f) and inserting in lieu thereof "in commerce";

(3) by revising paragraph (f) thereof to read as follows:

"(f) The term 'dealer' means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—

"(i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or

"(ii) any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than \$500 gross income from the sale of other animals during any calendar year;"

(4) by deleting "; and" at the end of paragraph (g) and inserting in lieu thereof the following: ". With respect to a dog, the term means all dogs including those used for hunting, security, or breeding purposes;" and

(5) by deleting the period at the end of paragraph (h) and inserting a semicolon in lieu thereof.

SEC. 4. Section 2 of such Act is further amended by adding thereto two new paragraphs to read:

"(i) The term 'intermediate handler' means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce; and

"(j) The term 'carrier' means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire."

SEC. 5. Sections 4, 11, and 12 of such Act are amended by striking out "affecting commerce" and inserting in lieu thereof "in commerce".

SEC. 6. Section 6 of such Act is amended by inserting after the term "research facility", a comma and the term "every intermediate handler, every carrier,".

SEC. 7. Section 9 of such Act is amended by inserting after the term "section 12 of this Act," the term "or an intermediate handler, or a carrier," and by deleting the term "or an operator of an auction sale as well as of such person." at the end of section 9 and substituting therefor the following term: "operator of an auction sale, intermediate handler, or carrier, as well as of such person."

SEC. 8. Section 10 of such Act is amended by deleting the phrase "upon forms supplied by the Secretary" from the first sentence and by inserting between the second and third sentences thereof the following: "At the request of the Secretary, any regulatory agency of the Federal Government which requires records to be maintained by intermediate handlers and carriers with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, shall require there to be included in such forms, and intermediate handlers and carriers shall include in such forms, such information as the Secretary may require for the effective administration of this Act. Such information shall be retained for such reasonable period of time as the Secretary may prescribe. If regulatory agencies of the Federal Government do not prescribe requirements for any such forms, intermediate handlers and carriers shall make and retain for such reasonable period as the Secretary may prescribe such records with respect to the transportation, receiving, handling, and delivery of animals as the Secretary may prescribe."

SEC. 9. Section 13 of such Act is amended by designating the provisions thereof as subsection (a) and by adding, after the second sentence therein, new sentences to read: "The Secretary shall also promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or of any State or local government, for transportation in commerce. The Secretary shall have authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling."

SEC. 10. Section 13 of such Act, as amended, is further amended by adding at the end thereof new subsections (b), (c), and (d) to read:

"(b) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce, or received by any such handler or carrier for such transportation from any such person, department, agency, or instrumentality, unless the animal is accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine, certifying

that he inspected the animal on a specified date, which shall not be more than ten days before such delivery, and, when so inspected, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health: Provided, however, That the Secretary may by regulation provide exceptions to this certification requirement, under such conditions as he may prescribe in the regulations, for animals shipped to research facilities for purposes of research, testing or experimentation requiring animals not eligible for such certification. Such certificates received by the intermediate handlers and the carriers shall be retained by them, as provided by regulations of the Secretary, in accordance with section 10 of this Act.

"(c) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any person to any intermediate handler or carrier for transportation in commerce except to registered research facilities if they are less than such age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe different ages for particular kinds or classes of dogs, cats, or designated animals, for the purposes of this section, when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

"(d) No intermediate handler or carrier involved in the transportation of any animal in commerce shall participate in any arrangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges for any animal not claimed within a period of 48 hours after notice to the consignee of arrival of the animal, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of such animals."

Sec. 11. Section 15 of such Act is amended by inserting after the term "exhibition" in the first sentence, a comma and the term "or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals", and by adding the following at the end of the sentence: "Before promulgating any standard governing the air transportation and handling in connection therewith, of animals, the Secretary shall consult with the Secretary of Transportation who shall have the authority to disapprove any such standard if he notifies the Secretary, within 30 days after such consultation, that changes in its provisions are necessary in the interest of flight safety. The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it."

Sec. 12 Subsection (a) of section 16 of such Act is amended by inserting the term "intermediate handler, carrier," in the first sentence after the term "exhibitor," each time the latter term appears in the sentence; by inserting before the period in the second sentence, a comma and the term "or (5) such animal is held by an intermediate handler

or a carrier"; and by deleting the term "or" before the term "(4)" in the second sentence.

(b) Subsection (c) of section 16 of such Act is amended by striking the words "sections 19(b) and 20(b)" in the last sentence and inserting in lieu thereof the words "section 19(c)".

Sec. 13. Section 19 of such Act is amended to read as follows:

"(a) If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provision of this Act, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed 21 days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.

"(b) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, that violates any provision of this Act, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a civil penalty of \$500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

"(c) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, aggrieved by a final order of the Secretary issued pursuant to this section may, within 60 days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of section 2341, 2343 through 2350 of title 28, United States Code, and such court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order.

"(d) Any dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, who knowingly violates any provision of this



Act shall, on conviction thereof, be subject to imprisonment for not more than 1 year, or a fine of not more than \$1,000, or both. Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States magistrates as provided in section 636 of title 28, United States Code, and sections 3401 and 3402 of title 18, United States Code, and, with the consent of the Attorney General, may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture."

SEC. 14. Section 20 of such Act is hereby repealed.

SEC. 15. Section 24 of such Act is amended by inserting the following at the end of the section: "Notwithstanding the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this Act, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence 90 days after promulgation of regulations under section 13 of this Act, as amended, with respect to intermediate handlers and carriers, and such regulations shall be promulgated no later than 9 months after the enactment of the Animal Welfare Act Amendments of 1976; and compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of this Act, as so amended, and the regulations thereunder, shall commence upon the expiration of 90 days after enactment of the Animal Welfare Act Amendments of 1976: Provided, however, That compliance by all persons with paragraphs (b), (c), and (d) of section 13 and with section 26 of this Act, as so amended, shall commence upon the expiration of said ninety-day period. In all other respects, said amendments shall become effective upon the date of enactment."

SEC. 16. Section 25 of such Act is amended by deleting from subsection (2) the word "and" where it last appears, deleting the period at the end of subsection (3) and inserting "; and" in lieu thereof, and by inserting after subsection (3) the following new subsection:

"(4) recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation."

SEC. 17. Such Act is amended by adding at the end thereof the following new section:

"SEC. 26. (a) It shall be unlawful for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

"(b) It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

"(c) It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the States of the United States.

"(d) Notwithstanding the provisions of subsections (a), (b), or (c) of this section, the activities prohibited by such subsections shall be unlawful with respect to fighting ventures involving live birds only

if the fight is to take place in a State where it would be in violation of the laws thereof.

"(e) Any person who violates subsection (a), (b), or (c) shall be fined not more than \$5,000 or imprisoned for not more than 1 year, or both, for each such violation.

"(f) The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this paragraph (f). Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

"(g) For purposes of this section—

"(1) the term 'animal fighting venture' means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term 'animal fighting venture' shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, racoon, or fox hunting;

"(2) the term 'interstate or foreign commerce' means—

"(A) any movement between any place in a State to any place in another State or between places in the same State through another State; or

"(B) any movement from a foreign country into any State;

"(3) the term 'interstate instrumentality' means telegraph, telephone, radio, or television operating in interstate or foreign commerce;

"(4) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;



"(5) the term 'animal' means any live bird, or any live dog or other mammal, except man; and

"(6) the conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of this Act as a dealer, exhibitor, or otherwise.

"(h) (1) The provisions of this Act shall not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this Act or any rule, regulation, or standard hereunder.

"(2) Section 3001(a) of title 39, United States Code, is amended by adding immediately after the words 'title 18' a comma and the words 'or section 26 of the Animal Welfare Act'."

Sec. 18. Section 23 of such Act is amended by inserting immediately before the period at the end of the third sentence ": Provided, That there is authorized to be appropriated to the Secretary of Agriculture for enforcement by the Department of Agriculture of the provisions of section 26 of this Act an amount not to exceed \$100,000 for the transition quarter ending September 30, 1976, and not to exceed \$400,000 for each fiscal year thereafter".

Sec. 19. Section 14 of such Act is amended by inserting in the first sentence after the term "standards" the phrase "and other requirements".

In lieu of the amendment of the House to the title of the bill insert the following: "An Act to amend the Act of August 24, 1966, as amended, to increase the protection afforded animals in transit and to assure humane treatment of certain animals, and for other purposes."

And the House agree to the same.

THOMAS S. FOLEY,  
W. R. POAGE,  
BOB BERGLAND,  
JERRY LITTON,  
JAMES WEAVER,  
TOM HARKIN,

*Managers on the Part of the House.*

WARREN G. MAGNUSON,  
WENDELL H. FORD,  
LOWELL P. WEICKER, JR.,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1941) to amend the act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying Conference report. The differences between the Senate bill and the House amendment and the substitute agreed to in Conference are noted in the following outline, except for conforming, clarifying, and technical changes:

### 1. TITLE OF BILL

#### *Senate bill*

The title of the Senate bill declares its purpose to be "to increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes."

#### *House amendment*

The title of the House amendment states its purpose to be "to amend the act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes."

#### *Conference substitute*

The Conference substitute adopts the title of the House amendment but incorporates the phrase "to increase the protection afforded animals in transit" from the title of the Senate bill.

### 2. CITATION OF AMENDMENTS

#### *Senate bill*

The Senate bill provides that this act may be cited as the Animal Welfare Amendments of 1975.

#### *House amendment*

The House amendment provides that this act may be cited as the Animal Welfare Act Amendments of 1976.

#### *Conference substitute*

The Conference substitute adopts the House provision.

### 3. SHORT TITLE OF ACT

#### *Senate bill*

The Senate bill provides that the act of August 24, 1966, as amended, may be cited is the "Animal Welfare Act."

#### *House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the Senate provision.

4. CONGRESSIONAL DECLARATION OF POLICY (SECTION 1 OF EXISTING LAW)

*Senate bill*

The Senate bill revises the congressional declaration of policy contained in section 1 of the present law and makes a congressional finding that animals and activities which are regulated under this act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this act is necessary to prevent and eliminate burdens upon such commerce.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the Senate provision.

5. DEFINITION OF COMMERCE (SUBSECTIONS 2(c) AND 2(d) OF EXISTING LAW)

*Senate bill*

The Senate bill strikes from the present law the definition of the terms "commerce" and "affecting commerce" and inserts in lieu thereof a new definition of the term "commerce" and a definition of the term "State" as used in the new definition of "commerce". These provisions would narrow the coverage of the existing law by excluding commerce between points within the same State, territory, or possession, etc., which passes through a point outside thereof and commerce within any territory, possession, or the District of Columbia, but would otherwise not limit the coverage of the statute.

*House amendment*

The House amendment contains no comparable provisions.

*Conference substitute*

The Conference substitute adopts the Senate provision with an amendment to carry forward from existing law into the new definition of the term "commerce" commerce between two points in the same State but through any place outside thereof, and commerce within any territory, possession, or the District of Columbia.

6. DEFINITION OF DEALER (SUBSECTION 2(f) OF EXISTING LAW)

*Senate bill*

The Senate bill amends the definition of the term "dealer" in the present law to add to those already covered by the definition persons who offer animals for sale, and also to include all retail pet stores. (Retail pet stores are not included in the definition of "dealer" under existing law unless they sell animals to research facilities, exhibitors, or dealers.)

*House amendment*

The House amendment does not disturb the coverage of retail pet stores under existing law. However, in addition to persons already

covered, it would add to the definition of the term "dealer" any person who negotiates the purchase or sale of animals. The House amendment would further amend the definition of the term "dealer" to include specifically any person who sells any wild animal, dog, or cat or who delivers for transportation, transports, buys, sells, or negotiates the purchase or sale of any dog for hunting, security, or breeding purposes. However, any person who grosses no more than \$500 in any calendar year from the sale of animals other than wild animals, dogs, or cats would be specifically excluded from the definition of the term "dealer".

*Conference substitute*

The Conference substitute adopts the House provision. However, the term "dealer" includes only those persons who deal in animals for compensation or profit. The term does not include a person who, on a casual basis purchases a dog or cat for his own use or enjoyment; nor does it include a person who upon occasion in isolated transactions sells a dog or cat.

7. DEFINITION OF ANIMAL (SUBSECTION 2(g) OF EXISTING LAW)

*Senate bill*

The Senate bill adds to the definition of the term "animal" in the present law cold-blooded animals, birds, and horses used for exhibition or as pets (horses used for research are included in the definition under existing law); and clarifies that the term "dog" as used in the definition of "animal" includes dogs used for hunting, security, or breeding purposes. The Senate bill also removes from the definition of "animal" all dead animals and any non-human primate mammal not embraced within the term "monkey".

*House amendment*

The House amendment makes no change in the definition of the term "animal" in the present law other than to clarify the fact that the term "dog" as contained in that definition means all dogs including those used for hunting, security, or breeding purposes.

*Conference substitute*

The Conference substitute adopts the House provision.

8. DEFINITION OF EXHIBITOR (SUBSECTION 2(h) OF EXISTING LAW)

*Senate bill*

The Senate bill amends the definition of the term "exhibitor" in the present law to limit its application to a person who exhibits animals in commerce to the public for compensation. The effect of this change would be to exclude from coverage under this definition persons exhibiting animals which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the House amendment.

9. NEW DEFINITIONS OF CARRIER AND INTERMEDIATE HANDLER (ADDED TO SECTION 2 OF EXISTING LAW)

*Senate bill*

The Senate bill adds to the definitions contained in section 2 of the present law a new term, "carrier", which would be defined as any person designated by the Secretary of Transportation who is subject to regulation by the ICC, CAB, or FMC or is engaged in the business of transporting animals for hire or providing services incidental to such transportation.

*House amendment*

The House amendment would add to the definitions contained in section 2 of the present law two new terms *viz.*: "carrier" and "intermediate handler", neither of which would be subject to designation by the Secretary of Transportation. The term "carrier" would be defined to mean the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire and includes all terminal facilities controlled by such carriers. The term "intermediate handler" means persons other than dealers, research facilities, exhibitors, operators of auction sales, or carriers and includes express companies, forwarders, and other persons or facilities (including terminal facilities not controlled by carriers) which handle animal shipments.

*Conference substitute*

The Conference substitute adopts the House provision.

10. TERMINAL FACILITIES USED BY LICENSEES (SECTION 3 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 3 of the present law to deny a license to any dealer or exhibitor who uses terminal facilities which do not comply with the standards promulgated by the Secretary pursuant to section 13 of the Act.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the House amendment.

11. DELETION OF TERM "AFFECTING COMMERCE" (SECTIONS 4, 11 AND 12 OF EXISTING LAW)

*Senate bill*

The Senate bill strikes out the term "affecting commerce" and inserts in lieu thereof the term "in commerce" in sections 4 (requiring a valid license for dealers and exhibitors), 11 (requiring marking and identification of animals), and 12 (licensing of certain auction sales, etc.) of the act. These changes do not limit the coverage of the statute and are intended to bring these sections into line with the revised

declaration of policy and new definition of the term "commerce" contained in the Senate bill.

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the Senate provision.

12. REGISTRATION (SECTION 6 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 6 of the present law to require registration of every carrier not licensed under section 3 of the act.

*House amendment*

The House amendment amends section 6 to require registration of every intermediate handler and every carrier not so licensed.

*Conference substitute*

The Conference substitute adopts the House provision.

13. RESPONSIBILITY FOR ACTS OF AGENTS (SECTION 9 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 9 of the present law to make carriers responsible for the acts of their agents or employees.

*House amendment*

The House amendment would amend section 9 to make intermediate handlers or carriers responsible for the acts of their agents or employees.

*Conference substitute*

The Conference substitute adopts the House provision.

14. RECORDKEEPING BY CARRIERS AND INTERMEDIATE HANDLERS (SECTION 10 OF EXISTING LAW)

Both the Senate bill and the House amendment amend section 10 of the present law to delete the requirement that the Secretary of Agriculture supply the forms upon which records required under the act are kept.

*Senate bill*

In addition, the Senate bill would amend section 10 to empower the Secretary of Agriculture, subject to the approval of every other Federal agency which requires carriers to keep records, to require carriers to keep records with respect to the transportation, receiving, handling, and delivering of animals. The Senate bill would also require any such records to be made available at all reasonable times for inspection and copying by the Secretary. (A comparable provision already appears in section 10).

*House amendment*

The House amendment would require any Federal regulatory agency which requires intermediate handlers and carriers to keep records with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, to require inclusion in such forms, and intermediate handlers and carriers would be required to include, information which the Secretary requests be required for effective administration of the act. Such information shall be retained by such agencies and intermediate handlers and carriers for such reasonable period of time as the Secretary may prescribe. The Secretary would be empowered to prescribe recordkeeping requirements and reasonable periods of record retention for intermediate handlers and carriers not required by other Federal regulatory agencies to keep records with respect to the transportation, receiving, handling, and delivery of animals.

*Conference substitute*

The Conference substitute adopts the House provision.

15. HUMANE STANDARDS FOR CARRIERS AND INTERMEDIATE HANDLERS  
(SECTION 13 OF EXISTING LAW)

Both the Senate bill and the House amendment designate section 13 of the present law as subsection "(a)".

*Senate bill*

The Senate bill amends the section to extend application of the humane standards promulgated by the Secretary to any terminal facilities used by a carrier subject to the act and also to the facilities of auction sales licensed under section 12 of the act and to the facilities of persons not qualifying as dealers or exhibitors who may be licensed under section 3 of the act.

*House amendment*

The House amendment would amend the section by inserting two new sentences which would require the Secretary to promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States, for transportation in commerce. (As noted below in No. 16, the Senate bill would add as subsection (b) of section 13 a comparable provision which is slightly broader in that it would apply also to animals consigned by State or local government agencies.) The Secretary would be empowered to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment to make clear that the humane standards promulgated by

the Secretary apply in the case of animals consigned by any department, agency, or instrumentality of any State or local government.

16. HUMANE STANDARDS AND VETERINARY CERTIFICATES  
(NEW SUBSECTION 13(b))

*Senate bill*

The Senate bill adds to section 13 of the act a new subsection "(b)" which empowers the Secretary to promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by carriers, of animals consigned by any dealer, research facility, owner of a pet, exhibitor, operator of an auction sale, department, agency, or instrumentality of the Federal Government or of any State or local government or other person. (As noted above in No. 15, the House amendment contains a comparable but slightly less comprehensive provision.) Such standards must be designed to assure the safe transportation in commerce of all animals received in healthy condition, and may include a requirement that no animal of a designated kind shall be delivered to or received by a carrier for transportation in commerce unless it is accompanied by the certificate of an accredited veterinarian attesting that he inspected the animal within the time interval he specifies and that, when so inspected, such animal appeared to be free of any infectious disease or physical abnormality which might endanger such animal or other animals during transportation in commerce. The Secretary may by regulation establish the time interval at which the certificate shall be issued and require that it be retained by the receiving carrier for a reasonable period of time.

*House amendment*

The House amendment would add to section 13 of the act a new subsection (b) which would provide that no dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce (or be received by such intermediate handler or carrier for such transportation) unless the animal is accompanied by the certificate of a licensed veterinarian certifying that he inspected the animal on a specific date not more than 10 days before such delivery at which time the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health. The House amendment differs from the provision in the Senate bill in that, in the House amendment, the veterinary certificate requirement is made mandatory, except for certain animals shipped to research facilities. The Senate bill leaves veterinary certificate requirements to the discretion of the Secretary of Agriculture. The House amendment also requires that the veterinary certificate include a statement that public health is not endangered, a provision not found in the Senate bill. The Secretary could by regulation provide conditional exceptions to the certification requirement for animals ineligible for such certificates when such animals are shipped to research facilities

for purposes of research, etc., requiring such animals. The Secretary would be empowered to prescribe the period of retention of veterinary certificates in regulations promulgated in accordance with section 10 of the act.

*Conference substitute*

The Conference substitute adopts the House provision.

17. AGE LIMITATIONS (NEW SUBSECTION 13(c))

*Senate bill*

The Senate bill contains no provision respecting the age at which animals may be transported.

*House Amendment*

The House amendment would add to section 13 of the act a new subsection (c) which would prohibit delivery of any dogs, cats, or additional kinds or classes of animals designated by regulation of the Secretary, by any person to any intermediate handler or carrier for transportation in commerce, except to registered research facilities, if they are less than 8 weeks of age, or such other age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe ages different than 8 weeks for particular kinds or classes of dogs, cats, or designated animals when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which requires the Secretary of Agriculture to determine the minimum age at which dogs, cats, or other animals designated by the Secretary may be delivered for transportation in commerce. The Secretary would, thus, also have discretion, subject to such standards and regulations as he might prescribe, to permit transportation of animals with their litters.

18. C.O.D. TRANSPORTATION OF ANIMALS (NEW SUBSECTION 13(c)  
OR 13(d))

*Senate bill*

The Senate bill adds to section 13 of the act a new subsection "(c)" which prohibits any carrier from transporting any animal where the fare or other charges (including the cost of the animal) are to be collected upon delivery unless the consignor guarantees in writing the payment of transportation charges, including return transportation and the out-of-pocket expenses incurred by the carrier in handling any animal not claimed upon delivery. Return transportation shall be permitted by the carriers after 24 hours.

*House amendment*

The House amendment would add to section 13 of the act a new subsection "(d)" containing similar provisions. It would prohibit any intermediate handler or carrier from receiving for transportation or transporting in commerce any animal where the cost of either the

animal or its transportation is to be collected upon delivery unless the consignor guarantees in writing the payment of round-trip transportation charges and the carrier's out-of-pocket expenses for care of any animal not claimed within 48 hours after notice to the consignee of arrival of the animal.

*Conference substitute*

The Conference substitute adopts the House provision.

19. FEDERAL RESEARCH FACILITIES TO DEMONSTRATE COMPLIANCE  
(SECTION 14 OF EXISTING LAW)

*Senate bill*

The Senate bill makes no change in section 14 of the act which requires Federal agencies with animal laboratory facilities to comply with the standards promulgated by the Secretary for research facilities under section 13 of the act.

*House amendment*

The House amendment would amend section 14 of the act to extend to such Federal agencies the requirement presently imposed by the act upon other research facilities to show the Secretary of Agriculture at least annually that professionally acceptable standards governing the care, treatment, and use of animals are being followed.

*Conference substitute*

The Conference substitute adopts the House provision.

20. CONSULTATION ON HUMANE STANDARDS WITH FEDERAL REGULATORY  
AGENCIES (SECTION 15 OF EXISTING LAW)

*Senate bill*

The Senate bill adds to section 15 of the act a new subsection "(c)" which requires the Secretary of Agriculture to consult and cooperate with the Secretary of Transportation, the Administrator of the FAA, and the Chairmen of the CAB, ICC, and FMC with respect to the establishment and enforcement of humane standards for animals in the course of their transportation in commerce and in terminal facilities prior to and after such transportation. In the case of air transportation and related handling of animals, the Secretary of Agriculture is required, before promulgating any standard, to consult with the Secretary of Transportation and the Administrator of the FAA who in the interest of flight safety may disapprove any such standard within 30 days after consultation. The ICC, CAB, and FMC are required to take such action as is appropriate to implement the standards established by the Secretary. (This last provision has no counterpart in the House amendment.)

*House Amendment*

The House amendment would add to subsection (a) of section 15 of the act a similar requirement. It provides that the Secretary consult with other Federal departments, agencies, or instrumentalities concerned with administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals.

Before promulgating any standard governing the air transportation and handling in connection therewith of animals, the Secretary of Agriculture would be required to consult with the Secretary of Transportation (but not also with the Administrator of the FAA as in the Senate bill) who could within 30 days thereafter disapprove any such standard for reasons of flight safety.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which provides that the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it.

21. INVESTIGATION OF AND SEIZURE OF ANIMALS FROM CARRIERS AND INTERMEDIATE HANDLERS (SUBSECTION 16(a) OF EXISTING LAW)

*Senate bill*

The Senate bill amends subsection (a) of section 16 of the act to empower the Secretary to investigate and inspect the records of carriers, and to confiscate or destroy in a humane manner any animal held by a carrier which is found to be suffering as a result of a failure to comply with any provision of the act or any regulation or standard issued thereunder. In addition, a new sentence would be added to paragraph (a) authorizing United States Attorneys to prosecute all criminal violations of the act reported by the Secretary and to invite civil actions to enforce orders of, and to recover all civil penalties assessed and reported by the Secretary, or which come to their notice or knowledge by other means. (This requirement is contained in 28 U.S.C. 547.)

*House amendment*

The House amendment would amend subsection (a) of section 16 of the act to empower the Secretary to investigate and inspect the records of intermediate handlers and carriers and also to confiscate or destroy in a humane manner any animal held by an intermediate handler or carrier which is found to be suffering as a result of a failure to comply with any provision of the act or of the regulations or standards issued thereunder.

*Conference substitute*

The Conference substitute adopts the House provision.

22. GRANT OF IMMUNITY TO OBTAIN TESTIMONY (SUBSECTION 16(c) OF EXISTING LAW)

*Senate bill*

The Senate bill strikes from subsection (c) of section 16 of the act the power of the Secretary of Agriculture to obtain testimony by granting immunity under title II of the Organized Crime Control Act of 1970.

*House amendment*

The House amendment contains no comparable provision. However, the House amendment would make a technical amendment in subsec-

tion (c) of section 16 to accommodate another amendment made by the House to section 19 of the act.

*Conference substitute*

The Conference substitute adopts the House provision.

23. CEASE AND DESIST ORDERS—CIVIL PENALTIES (SECTION 19 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 19 of the act to include carriers among the categories of persons against whom the Secretary may issue a cease and desist order and to make carriers subject to suit by the United States for a civil penalty of \$500 for each violation of a cease and desist order. The district courts of the United States would be specifically authorized to enforce cease and desist orders against dealers, exhibitors, carriers, or operators of auction sales. (A comparable provision is already contained in section 16(c) of the act.) Carriers would be able to secure judicial review of cease and desist orders in the Courts of Appeals. Carriers would be subject to criminal penalties for violation of any provision of the act. However, the criminal penalty paragraph would be amended to authorize prosecution only for "knowing" violations by any dealer, exhibitor, carrier or operator of an auction sale, and the maximum term of imprisonment would be reduced from 1 year to 6 months.

The Senate bill also adds to section 19 of the act two new subsections. Subsection "(d)" would, in addition to the civil penalty provided for violation of a cease and desist order, empower the Secretary to impose an administrative civil penalty of not more than \$2,000 for each violation of the act or regulations. No specific provision is made for appeal from the assessment by the Secretary of a civil penalty. Subsection "(e)" would permit any action including actions for criminal or civil penalties under section 19 of the act to be brought before a United States magistrate in any judicial district in which such person is found.

*House amendment*

The House amendment would revise section 19 of the act to delete the provisions which limit the Secretary to issuing cease and desist orders against violators and require him to wait for subsequent violation of the cease and desist order before requesting the Attorney General to bring suit for a civil penalty of \$500. Instead, the Secretary would be authorized, after notice and opportunity for a hearing, to assess administratively a civil penalty of not more than \$1,000 for each violation against any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale who violates any provision of the act or regulations. Orders assessing civil penalties would be appealable to the United States Courts of Appeals. In the event of failure to pay a civil penalty, the Secretary would be authorized to request the Attorney General to bring suit to collect the penalty in U.S. district court in any judicial district in which the defaulting violator is found, or resides, or transacts business. Such courts would be given jurisdiction to hear such actions.

The House amendment would not subject intermediate handlers or carriers to criminal penalties but would limit prosecution against



dealers, exhibitors, and operators of auction sales to violations committed "knowingly" and provides that prosecution of criminal violations be brought before United States magistrates to the maximum extent practicable. With the consent of the Attorney General, such prosecution could be handled both before the magistrate and, upon appeal to district court, by attorneys of the United States Department of Agriculture.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which empowers the Secretary, when assessing an administrative civil penalty, to issue a cease and desist order and provides for judicial assessment of a civil penalty of \$500 for knowing violation of such a cease and desist order, and each day such violation continues is a separate offense.

24. CIVIL PENALTIES FOR RESEARCH FACILITIES (SECTION 20 OF EXISTING LAW)

*Senate bill*

The Senate bill makes no change in section 20 of the act, which provides for cease and desist orders and civil penalties against research facilities.

*House amendment*

The House amendment repeals section 20. As noted above, the House amendment deletes those provisions of the existing law which limit the Secretary to issuing cease and desist orders. Section 20 differs from section 19 of the existing law only insofar as it affords research facilities notice and opportunity for hearing prior to issuance of a cease and desist order and gives research facilities 15 days to comply with such an order. These privileges are not accorded to dealers, exhibitors, or operators of auction sales under section 19. The House amendment includes research facilities under section 19 and extends the opportunity for notice and hearing to all persons subject to the section.

*Conference substitute*

The Conference substitute adopts the House provision.

25. ORAL HEARING REQUIRED FOR RULEMAKING (SECTION 21 OF EXISTING LAW)

*Senate bill*

The Senate bill would amend section 21 of the act, which confers rulemaking authority on the Secretary, to require transcribed oral hearings prior to issuance by the Secretary of regulations relating to recordkeeping requirements under section 8 of the act or standards under subsections (a) and (b) of section 10. (The reference should be to sections 10 and 15 of the act which are amended by sections 8 and 10 of the Senate bill.)

*House amendment*

The House amendment contains no comparable provision.

*Conference substitute*

The Conference substitute adopts the House amendment.

26. APPROPRIATIONS (SECTION 23 OF EXISTING LAW)

*Senate bill*

The Senate bill strikes from section 23 of the act the general authorization of appropriations and substitutes therefor a new section 26 at the end of the act which would authorize appropriations of not to exceed \$4 million for the fiscal year ending June 30, 1976; not to exceed \$1 million for the transition quarter ending September 30, 1976; and not to exceed \$4 million for the fiscal years ending September 30, 1977, and September 30, 1978. New authorizations would be required for succeeding fiscal years.

*House amendment*

The House amendment would add to the general authorization of appropriations in section 23 of the act a proviso which would limit, to \$100,000 for the transition quarter and \$400,000 for each fiscal year thereafter, appropriations for enforcement of section 26 (animal fighting ventures) added to the act by the House amendment. In addition, the House amendment contains a separate section limiting to \$100,000 for the transition quarter and to \$600,000 for each fiscal year thereafter, appropriations to implement and administer the provisions of the Animal Welfare Act Amendments of 1976, other than section 26.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which deletes the \$600,000 authorization ceiling on appropriations to implement those sections of these amendments which relate to humane treatment of animals in commerce, but retains the \$400,000 authorization ceiling imposed by the House on appropriations to enforce the animal fighting section.

27. EFFECTIVE DATE (SECTION 24 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 24 of the act to require the Secretary to prescribe regulations affecting carriers not later than 9 months after enactment and to require carriers to comply with the provisions of the act and regulations 90 days thereafter.

*House amendment*

The House amendment amends section 24 of the act (1) to require compliance by intermediate handlers and carriers with the provisions of the act, as amended, which relate to them to commence 90 days after promulgation of regulations under section 13 of the act, as amended, which shall be not later than 9 months after enactment; (2) to require compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of the act, as amended, and the implementing regulations 90 days after enactment; and to require compliance by all persons with the veterinary certificate, young animal, and C.O.D. amendments to section 13 of the act 90 days after enactment. All other amendments, principally section 26 (animal fighting ventures), would become effective upon the date of enactment.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which makes new section 26 of the act (animal fighting ventures) effective 90 days after enactment of these amendments.

## 28. ANNUAL REPORT TO CONGRESS (SECTION 25 OF EXISTING LAW)

*Senate bill*

The Senate bill amends section 25 of the act to require the Secretary of Agriculture to include in his annual report to the Congress recommendations and conclusions concerning flight safety, including the aircraft, its environment, or equipment as they relate to the carriage of live animals in air transportation, but only those recommendations and conclusions which have been approved by the Secretary of Transportation, the Administrator of the FAA, and the Chairman of the CAB.

*House amendment*

The House amendment would amend section 25 of the act to require the Secretary to include in his annual report to the Congress recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation.

*Conference substitute*

The Conference substitute adopts the House provision.

## 29. ANIMAL FIGHTING (NEW SECTION 26)

*Senate bill*

The Senate bill contains no provisions relating to animal fighting ventures.

*House amendment*

The House amendment adds to the act a new section 26 which would subject to a fine of not more than \$5,000 or imprisonment for not more than 1 year, or both, any person who knowingly (a) sponsors or exhibits an animal in any fighting venture to which any animal was moved in interstate or foreign commerce, (b) sells, buys, transports, or delivers to another person or receives from another person for purposes of transportation in interstate or foreign commerce any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture, or (c) uses the U.S. mails or any interstate instrumentality for purposes of promoting or furthering an animal fighting venture held within the United States. The Secretary of Agriculture would be authorized to make such investigations as he deems necessary and to enlist the assistance of the FBI, Treasury, or other Federal, State or local law enforcement agencies. The provisions of this new section would not supersede or otherwise invalidate any State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict. For purposes of this new section of the act, the term "animal" would be defined to mean any live bird, or any live dog or other mammal, except man.

*Conference substitute*

The Conference substitute adopts the House provision with an amendment which provides that the activities prohibited by subsections (a), (b), or (c) of new section 26 of the act shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof. The section does not apply to export of live birds to foreign countries nor to interstate shipment of live birds for breeding purposes. Game fowl publications would be unaffected except that advertising of fights involving live birds would be prohibited except in those instances where such fights are to be held in a State or territory where they are not unlawful.

THOMAS S. FOLEY,  
W. R. POAGE,  
BOB BERGLAND,  
JERRY LITTON,  
JAMES WEAVER,  
TOM HARKIN,

*Managers on the Part of the House.*

WARREN G. MAGNUSON,  
WENDELL H. FORD,  
LOWELL P. WEICKER, JR.,

*Managers on the Part of the Senate.*



# Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

## An Act

To amend the Act of August 24, 1966, as amended, to increase the protection afforded animals in transit and to assure humane treatment of certain animals, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Animal Welfare Act Amendments of 1976".*

SEC. 2. Section 1 of the Act of August 24, 1966 (80 Stat. 350, as amended by the Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C. 2131-2155) is amended to read as follows:

"SECTION 1. (a) This Act may be cited as the 'Animal Welfare Act'.

"(b) The Congress finds that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—

"(1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;

"(2) to assure the humane treatment of animals during transportation in commerce; and

"(3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this Act, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use."

SEC. 3. Section 2 of such Act is amended—

(1) by striking out subsection (c) and (d) thereof and inserting in lieu thereof the following:

"(c) The term 'commerce' means trade, traffic, transportation, or other commerce—

"(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia;

"(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1).

"(d) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;"

(2) by striking out the term "affecting commerce" in subsections (e) and (f) and inserting in lieu thereof "in commerce";

(3) by revising paragraph (f) thereof to read as follows:

"(f) The term 'dealer' means any person who, in commerce, for compensation or profit, delivers for transportation, or transports,

except as a carrier, buys, or sells, or negotiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—

“(i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or

“(ii) any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than \$500 gross income from the sale of other animals during any calendar year;”

(4) by deleting “; and” at the end of paragraph (g) and inserting in lieu thereof the following: “. With respect to a dog, the term means all dogs including those used for hunting, security, or breeding purposes;”, and

(5) by deleting the period at the end of paragraph (h) and inserting a semicolon in lieu thereof.

SEC. 4. Section 2 of such Act is further amended by adding thereto two new paragraphs to read:

“(i) The term ‘intermediate handler’ means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce; and

“(j) The term ‘carrier’ means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire.”

SEC. 5. Sections 4, 11, and 12 of such Act are amended by striking out “affecting commerce” and inserting in lieu thereof “in commerce”.

SEC. 6. Section 6 of such Act is amended by inserting after the term “research facility”, a comma and the term “every intermediate handler, every carrier,”.

SEC. 7. Section 9 of such Act is amended by inserting after the term “section 12 of this Act,” the term “or an intermediate handler, or a carrier,” and by deleting the term “or an operator of an auction sale as well as of such person.” at the end of section 9 and substituting therefor the following term: “operator of an auction sale, intermediate handler, or carrier, as well as of such person.”

SEC. 8. Section 10 of such Act is amended by deleting the phrase “, upon forms supplied by the Secretary” from the first sentence and by inserting between the second and third sentences thereof the following: “At the request of the Secretary, any regulatory agency of the Federal Government which requires records to be maintained by intermediate handlers and carriers with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, shall require there to be included in such forms, and intermediate handlers and carriers shall include in such forms, such information as the Secretary may require for the effective administration of this Act. Such information shall be retained for such reasonable period of time as the Secretary may prescribe. If regulatory agencies of the Federal Government do not prescribe requirements for any such forms, intermediate handlers and carriers shall make and retain for such reasonable period as the Secretary may prescribe such records with respect to the transportation, receiving, handling, and delivery of animals as the Secretary may prescribe.”

SEC. 9. Section 13 of such Act is amended by designating the provisions thereof as subsection (a) and by adding, after the second

sentence therein, new sentences to read: "The Secretary shall also promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or of any State or local government, for transportation in commerce. The Secretary shall have authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling."

SEC. 10. Section 13 of such Act, as amended, is further amended by adding at the end thereof new subsections (b), (c), and (d) to read:

"(b) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce, or received by any such handler or carrier for such transportation from any such person, department, agency, or instrumentality, unless the animal is accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine, certifying that he inspected the animal on a specified date, which shall not be more than ten days before such delivery, and, when so inspected, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health: *Provided, however,* That the Secretary may by regulation provide exceptions to this certification requirement, under such conditions as he may prescribe in the regulations, for animals shipped to research facilities for purposes of research, testing or experimentation requiring animals not eligible for such certification. Such certificates received by the intermediate handlers and the carriers shall be retained by them, as provided by regulations of the Secretary, in accordance with section 10 of this Act.

"(c) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any person to any intermediate handler or carrier for transportation in commerce except to registered research facilities if they are less than such age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe different ages for particular kinds or classes of dogs, cats, or designated animals, for the purposes of this section, when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

"(d) No intermediate handler or carrier involved in the transportation of any animal in commerce shall participate in any arrangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges for any animal not claimed within a period of 48 hours after notice to the consignee of arrival of the animal, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of such animals."

SEC. 11. Section 15 of such Act is amended by inserting after the term "exhibition" in the first sentence, a comma and the term "or

administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals", and by adding the following at the end of the sentence: "Before promulgating any standard governing the air transportation and handling in connection therewith, of animals, the Secretary shall consult with the Secretary of Transportation who shall have the authority to disapprove any such standard if he notifies the Secretary, within 30 days after such consultation, that changes in its provisions are necessary in the interest of flight safety. The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it."

Sec. 12. (a) Subsection (a) of section 16 of such Act is amended by inserting the term "intermediate handler, carrier," in the first sentence after the term "exhibitor," each time the latter term appears in the sentence; by inserting before the period in the second sentence, a comma and the term "or (5) such animal is held by an intermediate handler or a carrier"; and by deleting the term "or" before the term "(4)" in the second sentence.

(b) Subsection (c) of section 16 of such Act is amended by striking the words "sections 19(b) and 20(b)" in the last sentence and inserting in lieu thereof the words "section 19(c)".

Sec. 13. Section 19 of such Act is amended to read as follows:

"(a) If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provision of this Act, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed 21 days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.

"(b) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, that violates any provision of this Act, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a



civil penalty of \$500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

“(c) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, aggrieved by a final order of the Secretary issued pursuant to this section may, within 60 days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of section 2341, 2343 through 2350 of title 28, United States Code, and such court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary’s order.

“(d) Any dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, who knowingly violates any provision of this Act shall, on conviction thereof, be subject to imprisonment for not more than 1 year, or a fine of not more than \$1,000, or both. Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States magistrates as provided in section 636 of title 28, United States Code, and sections 3401 and 3402 of title 18, United States Code, and, with the consent of the Attorney General, may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture.”

SEC. 14. Section 20 of such Act is hereby repealed.

SEC. 15. Section 24 of such Act is amended by inserting the following at the end of the section: “Notwithstanding the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this Act, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence 90 days after promulgation of regulations under section 13 of this Act, as amended, with respect to intermediate handlers and carriers, and such regulations shall be promulgated no later than 9 months after the enactment of the Animal Welfare Act Amendments of 1976; and compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of this Act, as so amended, and the regulations thereunder, shall commence upon the expiration of 90 days after enactment of the Animal Welfare Act Amendments of 1976: *Provided, however,* That compliance by all persons with paragraphs (b), (c), and (d) of section 13 and with section 26 of this Act, as so amended, shall commence upon the expiration of said ninety-day period. In all other respects, said amendments shall become effective upon the date of enactment.”

SEC. 16. Section 25 of such Act is amended by deleting from subsection (2) the word “and” where it last appears, deleting the period at the end of subsection (3) and inserting “; and” in lieu thereof, and by inserting after subsection (3) the following new subsection:

“(4) recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation.”

SEC. 17. Such Act is amended by adding at the end thereof the following new section:

“SEC. 26. (a) It shall be unlawful for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

“(b) It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

“(c) It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the States of the United States.

“(d) Notwithstanding the provisions of subsections (a), (b), or (c) of this section, the activities prohibited by such subsections shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof.

“(e) Any person who violates subsection (a), (b), or (c) shall be fined not more than \$5,000 or imprisoned for not more than 1 year, or both, for each such violation.

“(f) The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this paragraph (f). Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

“(g) For purposes of this section—

“(1) the term ‘animal fighting venture’ means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term ‘animal fighting venture’ shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting;

“(2) the term ‘interstate or foreign commerce’ means—

“(A) any movement between any place in a State to any place in another State or between places in the same State through another State; or

“(B) any movement from a foreign country into any State;

“(3) the term ‘interstate instrumentality’ means telegraph, telephone, radio, or television operating in interstate or foreign commerce;

“(4) the term ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

“(5) the term ‘animal’ means any live bird, or any live dog or other mammal, except man; and

“(6) the conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of this Act as a dealer, exhibitor, or otherwise.

“(h) (1) The provisions of this Act shall not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this Act or any rule, regulation, or standard hereunder.

“(2) Section 3001(a) of title 39, United States Code, is amended by adding immediately after the words ‘title 18’ a comma and the words ‘or section 26 of the Animal Welfare Act’.”

SEC. 18. Section 23 of such Act is amended by inserting immediately before the period at the end of the third sentence “: *Provided*, That there is authorized to be appropriated to the Secretary of Agriculture for enforcement by the Department of Agriculture of the provisions of section 26 of this Act an amount not to exceed \$100,000 for the transition quarter ending September 30, 1976, and not to exceed \$400,000 for each fiscal year thereafter”.

SEC. 19. Section 14 of such Act is amended by inserting in the first sentence after the term “standards” the phrase “and other requirements”.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

April 14, 1976

Dear Mr. Director:

The following bills were received at the White House on April 14th:

✓ S. 1941  
✓ S. 3056

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D.C.