Public Law 94-279
94th Congress

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.

Apr. 22, 1976
[S. 1941]

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".

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:

7 USC 2131 note.

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

7 USC 2131 note.
7 USC 2131.

"(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.
7 USC 2132.

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

(1) by striking out subsection (c) and (d) thereof and inserting 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,

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

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.

7 USC 2132.

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

"Intermediate handler."

"(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

"Carrier."

"(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.".

7 USC 2134, 2141, 2142.

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

7 USC 2136.

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,".

7 USC 2139.

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.".

7 USC 2140.

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.".

Record retention.

7 USC 2143.

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.". **Standards.** **Rules and regulations.**

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: **7 USC 2143.**

"(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. **7 USC 2140.**

"(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 **7 USC 2145.**

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.".

Consultation.

7 USC 2146.

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)".

7 USC 2149.
License suspension and revocation.
7 USC 2142.

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.

Notice and hearing.

Civil penalty.

"(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

Notice and hearing.

Civil action.

Penalty.

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.

Review.
7 USC 2142.

"(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.".

Penalties.

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 Section 20 of such Act is hereby repealed.

Repeal.
7 USC 2150.

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.".

7 USC 2154.

Infra.
Effective date.

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:

7 USC 2155.

"(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.

Animal fighting venture, prohibition.
7 USC 2156.

"(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.

Penalties.

"(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.

Investigations.

"(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.

Warrant.

Costs, recovery.

Definitions.

"(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'.".

Ante, p. 421.

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".

7 USC 2153.

Appropriation authorization.

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

7 USC 2144.

Approved April 22, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-801 accompanying H.R. 5808 (Comm. on Agriculture) and No. 94-976 (Comm. of Conference).

SENATE REPORTS: No. 94-580 (Comm. on Commerce) and No. 94-727 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 18, considered and passed Senate.

Vol. 122 (1976): Feb. 9, considered and passed House, amended, in lieu of H.R. 5808.

Apr. 6, House agreed to conference report.

Apr. 7, Senate agreed to conference report.

"(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.

"(b) (1) The provisions of this Act shall not supersede or preclude the enactment of 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 of this Act and this Act or any rule, regulation, or standard thereunder.

"(2) Section 3021(a) of title 39, United States Code, is amended by adding immediately after the comma "title 18," a comma and the words "or section 11 of the Animal Welfare Act,".

Sec. 15. Section 53 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 11 of this Act an amount not to exceed $100,000 for the transition quarter and for fiscal year 1976, and not to exceed $100,000 for each fiscal year thereafter".

Sec. 16. Section 26 of such Act is amended by inserting in the first sentence after the term "standards" the phrase "and other requirements".

Approved April 22, 1976.

dam, p. 421.
7 USC 2132.
Appropriation authorization.

7 USC 2144.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-801 (accompanying H.R. 7605) (Com. on Agriculture) and No. 94-976 (Comm. of Conference).
SENATE REPORTS: No. 94-580 (Comm. on Commerce) and No. 94-727 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 121 (1975): Dec. 11, considered and passed Senate.
Vol. 122 (1976): Feb. 9, considered and passed House, amended, in lieu of H.R. 3605.
Apr. 6, House agreed to conference report.
Apr. 7, Senate agreed to conference report.