

112TH CONGRESS
2^D SESSION

H. R. 6388

To amend the Horse Protection Act to designate additional unlawful acts under the Act, strengthen penalties for violations of the Act, improve Department of Agriculture enforcement of the Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2012

Mr. WHITFIELD (for himself, Mr. COHEN, Mr. MORAN, and Ms. SCHA-KOWSKY) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Horse Protection Act to designate additional unlawful acts under the Act, strengthen penalties for violations of the Act, improve Department of Agriculture enforcement of the Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. INCREASED ENFORCEMENT UNDER HORSE**
4 **PROTECTION ACT.**

5 (a) DEFINITIONS.—Section 2 of the Horse Protection
6 Act (15 U.S.C. 1821) is amended—

1 (1) by redesignating paragraphs (1), (2), (3),
2 and (4) as paragraphs (2), (3), (4), and (5), respec-
3 tively;

4 (2) by inserting before paragraph (2) (as so re-
5 designated) the following new paragraph:

6 “(1) The term ‘action device’ means any boot,
7 collar, chain, roller, or other device that encircles or
8 is placed upon the lower extremity of the leg of a
9 horse in such a manner that it can—

10 “(A) rotate around the leg or slide up and
11 down the leg, so as to cause friction; or

12 “(B) strike the hoof, coronet band, fetlock
13 joint, or pastern of the horse.”;

14 (3) in paragraph (2) (as so redesignated) by in-
15 serting “, including the sponsoring organization and
16 event manager” before the period; and

17 (4) by adding at the end the following new
18 paragraph:

19 “(6)(A) The term ‘participate’ means engaging
20 in any activity with respect to a horse show, horse
21 exhibition, or horse sale or auction, including—

22 “(i) transporting or arranging for the
23 transportation of a horse to or from a
24 horse show, horse exhibition, or horse sale
25 or auction;

1 “(ii) personally giving instructions to
2 an exhibitor;

3 “(iii) being knowingly present in a
4 warm-up area, inspection area, or other
5 area at a horse show, horse exhibition, or
6 horse sale or auction that spectators are
7 not permitted to enter; or

8 “(iv) financing the participation of
9 other individuals in any horse show, horse
10 exhibition, or horse sale or auction.

11 “(B) Such term does not include spectating.”.

12 (b) FINDINGS.—Section 3 of the Horse Protection
13 Act (15 U.S.C. 1822) is amended—

14 (1) in paragraph (3)—

15 (A) by inserting “and soring horses for
16 such purposes” after “horses in intrastate com-
17 merce,”; and

18 (B) by inserting “in many ways, including
19 by creating unfair competition, by deceiving the
20 spectating public and horse buyers, and by neg-
21 atively impacting horse sales” before the semi-
22 colon;

23 (2) in paragraph (4), by striking “and” at the
24 end;

1 (3) in paragraph (5), by striking the period at
2 the end and inserting a semicolon; and

3 (4) by adding at the end the following new
4 paragraphs:

5 “(6) the Inspector General of the Department
6 of Agriculture has determined that the program
7 through which the Secretary inspects horses is inad-
8 equate for preventing the soring of show horses; and

9 “(7) despite regulations in effect related to in-
10 spection for purposes of ensuring that horses are not
11 sore, violations of this Act continue to be preva-
12 lent.”.

13 (c) HORSE SHOWS AND EXHIBITIONS.—Section 4 of
14 the Horse Protection Act (15 U.S.C. 1823) is amended—

15 (1) in subsection (a)—

16 (A) by striking “appointed” and inserting
17 “licensed”; and

18 (B) by adding at the end the following new
19 sentences: “On the first instance in which the
20 Secretary determines that a horse is sore, the
21 Secretary shall disqualify the horse from being
22 shown or exhibited for a period of not less than
23 180 days. On the second instance in which the
24 Secretary determines that such horse is sore,
25 the Secretary shall disqualify the horse for a

1 period of not less than one year. On the third
2 instance in which the Secretary determines that
3 such horse is sore, the Secretary shall disqualify
4 the horse for a period of not less than three
5 years.”;

6 (2) in subsection (b), by striking “appointed”
7 and inserting “licensed”;

8 (3) by striking subsection (c) and inserting the
9 following new subsection:

10 “(c) LICENSURE, TRAINING, AND ASSIGNMENT OF
11 INSPECTORS; MANNER OF INSPECTION.—(1)(A) Not later
12 than 180 days after the date of enactment of this sub-
13 section, the Secretary shall prescribe by regulation re-
14 quirements for the Department of Agriculture to license,
15 train, assign, and oversee persons qualified to detect and
16 diagnose a horse which is sore or to otherwise inspect
17 horses at horse shows, horse exhibitions, or horse sales
18 or auctions, to be hired by management of such events,
19 for the purposes of enforcing this Act.

20 “(B) If the Secretary determines that the perform-
21 ance of a person licensed in accordance with subparagraph
22 (A) is unsatisfactory, the Secretary may, after notice and
23 an opportunity for a hearing, revoke the license issued to
24 such person.

1 “(C) Licensure of a person in accordance with the
2 requirements prescribed under this subsection shall not be
3 construed as authorizing such person to conduct inspec-
4 tions in a manner other than that prescribed for inspec-
5 tions by the Secretary (or the Secretary’s representative)
6 under subsection (e) of this section.

7 “(2)(A) Not later than 30 days before the date on
8 which a horse show, horse exhibition, or horse sale or auc-
9 tion begins, the management of such show, exhibition, or
10 sale or auction may notify the Secretary of the intent of
11 the management to hire a person or persons licensed
12 under this subsection and selected by the Secretary to con-
13 duct inspections at such show, exhibition, or sale or auc-
14 tion.

15 “(B) After such notification, the Secretary shall as-
16 sign a person or persons licensed under this subsection
17 to conduct inspections at the horse show, horse exhibition,
18 or horse sale or auction.

19 “(3) A person licensed by the Secretary to conduct
20 inspections under this subsection shall issue a citation
21 with respect to any violation of this Act recorded during
22 an inspection and notify the Secretary of each such viola-
23 tion not later than five days after the date on which a
24 citation was issued with respect to such violation.”; and

1 (4) in the heading for subsection (e), by strik-
2 ing “APPOINTED” and inserting “DESIGNATED”.

3 (d) UNLAWFUL ACTS.—Section 5 of the Horse Pro-
4 tection Act (15 U.S.C. 1824) is amended—

5 (1) in paragraph (2)—

6 (A) by striking “or (C) respecting” and in-
7 serting “(C), or (D) respecting”; and

8 (B) by striking “and (D)” and inserting
9 “(D) causing a horse to become sore or direct-
10 ing another person to cause a horse to become
11 sore for the purpose of showing, exhibiting, sell-
12 ing, auctioning, or offering for sale the horse in
13 any horse show, horse exhibition, or horse sale
14 or auction, and (E)”;

15 (2) in paragraph (3), by striking “appoint” and
16 inserting “hire”;

17 (3) in paragraph (4)—

18 (A) by striking “appoint” and inserting
19 “hire”; and

20 (B) by striking “qualified”;

21 (4) in paragraph (5), by striking “appointed”
22 and insert “hired”;

23 (5) in paragraph (6)—

24 (A) by striking “appointed” and inserting
25 “hired”; and

1 (B) by inserting “that the horse is sore”
2 after “the Secretary”; and

3 (6) by adding at the end the following new
4 paragraphs:

5 “(12) The use of an action device on any limb
6 of a Tennessee Walking, a Racking, or a Spotted
7 Saddle horse at a horse show, horse exhibition, or
8 horse sale or auction.

9 “(13) The use of a weighted shoe, pad, wedge,
10 hoof band, or other device or material at a horse
11 show, horse exhibition, or horse sale or auction
12 that—

13 “(A) is placed on, inserted in, or attached
14 to any limb of a Tennessee Walking, a Racking,
15 or a Spotted Saddle horse;

16 “(B) is constructed to artificially alter the
17 gait of such a horse; and

18 “(C) is not strictly protective or thera-
19 peutic in nature.”.

20 (e) VIOLATIONS AND PENALTIES.—Section 6 of the
21 Horse Protection Act (15 U.S.C. 1825) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (1)—

24 (i) by striking “Except as provided in
25 paragraph (2) of this subsection, any per-

1 son who knowingly violates section 5” and
2 inserting “Any person who knowingly vio-
3 lates section 5 or the regulations issued
4 under such section, including any violation
5 recorded during an inspection conducted in
6 accordance with section 4(c) or 4(e)”;

7 (ii) by striking “more than \$3,000, or
8 imprisoned for not more than one year, or
9 both.” and inserting “more than \$5,000,
10 or imprisoned for not more than three
11 years, or both, for each such violation.”;

12 (B) in paragraph (2)—

13 (i) by striking subparagraph (A);

14 (ii) by striking “(2)”;

15 (iii) by redesignating subparagraphs
16 (B) and (C) as paragraphs (2) and (3), re-
17 spectively, and moving the margins of such
18 paragraphs (as so redesignated) two ems
19 to the left; and

20 (C) by adding at the end the following new
21 paragraph:

22 “(4) Any person who knowingly fails to obey an
23 order of disqualification shall, upon conviction there-
24 of, be fined not more than \$5,000 for each failure

1 to obey such an order, imprisoned for not more than
2 three years, or both.”;

3 (2) in subsection (b)—

4 (A) in paragraph (1)—

5 (i) by striking “section 5 of this Act”
6 and inserting “section 5 or the regulations
7 issued under such section”; and

8 (ii) by striking “\$2,000” and insert-
9 ing “\$4,000”; and

10 (B) by adding at the end the following new

11 paragraph:

12 “(5) Any person who fails to pay a licensed in-
13 spector hired under section 4(c) shall, upon convic-
14 tion thereof, be fined not more than \$4,000 for each
15 such violation.”; and

16 (3) in subsection (c)—

17 (A) in the first sentence—

18 (i) by inserting “, or otherwise partici-
19 pating in any horse show, horse exhibition,
20 or horse sale or auction” before “for a pe-
21 riod of not less than one year”; and

22 (ii) by striking “any subsequent” and
23 inserting “the second”;

24 (B) by inserting before “Any person who
25 knowingly fails” the following: “For the third

1 or any subsequent violation, a person may be
2 permanently disqualified by order of the Sec-
3 retary, after notice and an opportunity for a
4 hearing before the Secretary, from showing or
5 exhibiting any horse, judging or managing any
6 horse show, horse exhibition, or horse sale or
7 auction, or otherwise participating in any horse
8 show, horse exhibition, or horse sale or auc-
9 tion.”; and

10 (C) by striking “\$3,000” each place it ap-
11 pears and inserting “\$5,000”.

12 (f) REGULATIONS.—Not later than 180 days after
13 the date of the enactment of this Act, the Secretary shall
14 issue regulations to carry out the amendments made by
15 this Act.

16 (g) SEVERABILITY.—If any provision of this Act or
17 any amendment made by this Act, or the application of
18 a provision to any person or circumstance, is held to be
19 unconstitutional, the remainder of this Act and the
20 amendments made by this Act, and the application of the
21 provisions to any person or circumstance, shall not be af-
22 fected by the holding.

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