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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.

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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 repect 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.

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.

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