



Update

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LEGISLATIVE UPDATE

TO: HSUS Staff and Regional Directors

Introduction

The "Legislative Update" is composed of four sections. Section I outlines the progress of animal welfare-related bills through Congress. Section II presents new bills introduced into Congress since the last "Legislative Update" and is organized topically. Section III lists the same new bills by number with a cross-reference to the topical subsection of Section II. Section IV is a potpourri of short articles describing recent developments in state legislation, enforcement of federal animal welfare laws, animal welfare-related litigation and miscellaneous matters.

This issue concludes the "Legislative Update" for the 94th Congress.

I. STATUS OF BILLS PENDING IN CONGRESS

This Section outlines whatever Congressional and Presidential action has been taken on bills listed in the June 1975, October 1975, February 1976 and July 1976 issues of "Update" as having been introduced into Congress. Those bills which were merely referred to a Committee but which have had no further action taken on them are not included herein.

S. 229 - Sen. Kennedy (D-Mass.)

[To amend the Endangered Species Act of 1973 to make it more consistent with the Marine Mammal Protection Act of 1972.]

Reported out of Senate Committee on Commerce with amendments. Senate Report 94-109	4/7/75
Passed Senate as reported	4/14/75

To House Committee on Merchant Marine and Fisheries	4/15/75
Hearing in House Committee on Merchant Marine and Fisheries	6/10/75
Passed House, with amendments, in lieu of H.R. 10229	2/17/76
House amendments agreed to by Senate, with amendments	6/24/76
Senate amendments agreed to by House . .	6/29/76
Signed by President. Public Law 94-359 .	7/12/76

S. 507 - Sen. Haskell (D-Colo.)

[To establish a public lands policy by directing the Secretaries of the Interior and Agriculture to prepare and maintain an inventory of all public lands and their resources. Establishes regulations relating to the management, use, development and conveyance of public and National Forest System lands and the authority of the Secretary of the Interior and the Secretary of Agriculture with respect thereto. (A section in the Act provides the Secretaries with the authority to use aircraft and other mechanized equipment in the management of wild horses and burros, permits the removal and sale of excess animals, and forbids either the unnecessary destruction or inhumane disposal of wild horses and burros.)]

Hearings in the Senate Committee on Interior and Insular Affairs	3/7/75
Reported out of Senate Committee on Interior and Insular Affairs with amendments. Senate Report 94-583 . .	12/18/75
Passed Senate with amendments	2/25/76
To House Committee on Interior and Insular Affairs	2/26/76
Passed House with amendments in lieu of H.R. 13777	7/22/76
Senate appoints conferees	7/30/76
House appoints conferees	8/5/76
Conference report submitted to House. House Report 94-1724	9/29/76
Conference report agreed to by House . .	9/30/76
Conference report agreed to by Senate . .	10/1/76
Signed by President. Public Law 94-579 .	10/21/76

S. 709 - Sen. Humphrey (D-Minn.)

[To provide for a comprehensive, long-range, and coordinated national program in marine science; to establish a National Council on Marine Science, Engineering and Resource Development, and an Advisory Panel on Marine Science, Engineering and Resource Development.]

Hearing in the Senate Committee on
Commerce 3/22/76

S. 811 - Sen. Tunney (D-Cal.)

[To amend the Horse Protection Act of 1970 to outlaw the practice of soring the Tennessee Walking Horse and all show horses.]

Reported out of Senate Committee on
Commerce with amendments. Senate
Report 94-418 10/8/75
Passed Senate as reported 10/9/75
To House Committee on Interstate and
Foreign Commerce 10/20/75
Hearing in House Committee on Interstate
and Foreign Commerce 12/17/75
Discharged from House Committee on
Interstate and Foreign Commerce and
Passed House with amendments in
lieu of H.R. 13711 6/21/76
House amendments agreed to by Senate . . . 6/24/76
Signed by President. Public Law 94-360 . . 7/13/76

H.R. 5523 - Rep. Leggett (D-Cal.)

[To improve the administration of fish and wildlife programs.]

Hearings in House Committee on Merchant
Marine and Fisheries 10/30/75
Reported out of House Committee on
Merchant Marine and Fisheries with
amendments. House Report 94-1053 . . . 4/28/76
Passed House as reported 5/3/76
To Senate Committee on Commerce 5/4/76
Passed Senate with amendments 10/1/76

H.R. 9067 - Rep. Karth (D-Minn.)

[To provide additional funds to the States for carrying out restoration projects and programs, and for other purposes. H.R. 9067 is a proposed amendment to the Federal Aid in Wildlife Restoration Act which would earmark 50% of the federal excise tax on firearms, bows, arrows and ammunition for use by the States in subsidizing so-called "hunter education" programs and "public target range" programs. These programs would provide public training in the use of guns and bows and arrows for hunting and other purposes. Furthermore, the bill allows funds to go to such State programs run in conjunction with "any appropriate private nonprofit organizations" such as the National Rifle Association.]

Reported out of House Committee on
Merchant Marine and Fisheries with
amendments. House Report 94-1459 . . . 9/1/76

H.R. 10922 - Rep. Wilson (D-Cal.)

[To require the furnishing of certain information in connection with the solicitation of charitable contributions by mail.]

Reported out of the House Committee on
Post Office and Civil Service.
House Report 94-1135 5/14/76

NOTE: Although the bill was not adopted during the 94th Congress, the Post Office and Civil Service Committee Staff has indicated that the bill will be re-introduced with two changes in January when the new 95th Congress convenes. The two anticipated changes in the new bill will be (a) that the effective date will be three (3) years after enactment instead of the present one year, and (b) that section (f), which would require the local affiliate of a national organization to comply with the act, will be deleted.

H.R. 11112 - Rep. Koch (D-N.Y.)

[To establish a Commission on the Humane Treatment of Animals to study a variety of problem areas in

animal welfare, including farming practices, laboratory research, the domestic pet industry, zoos, wildlife preservation programs, the transportation of animals and trapping.]

Hearing in the House Committee on
Agriculture 9/30/76

H.R. 13037 - Rep. Whitehurst (R-Va.)

[To require the Secretary of the Interior to make a comprehensive study of the wolf for the purpose of developing adequate conservation measures.]

Hearing in the House Committee on
Merchant Marine and Fisheries 9/20/76

H.R. 13500 - Rep. Conable (R-N.Y.)

[To amend the Internal Revenue Code of 1954 to allow tax-exempt organizations to carry on, within specified dollar amount limits, propaganda and other activities to influence legislation without losing their tax exempt status.]

Hearing in House Committee on Ways
and Means 5/12/76
Reported out of House Committee on
Ways and Means with amendment.
House Report 94-1210 6/2/76
Passed House, with amendments 6/8/76
To Senate Committee on Finance 6/10/76

NOTE: The Senate Committee on Finance included the provisions of this bill in the Tax Reform Act of 1976 (H.R. 10612) which was signed by the President on 10/4/76 as Public Law 94-455. A fuller separate memo on this is being prepared.

H.R. 13711 - Rep. Rogers (D-Fla.)

[To amend the Horse Protection Act of 1970 to prohibit the showing, exhibition, sale, or auction of a "sored" horse. Authorizes the Secretary of

Agriculture to establish regulations for the enforcement of the Act and imposes penalties for violations.]

Reported out of the House Committee on
Interstate and Foreign Commerce with
no amendments. House Report 94-1174 . 5/15/76
Passed House with amendments 6/21/76
Tabled and S.811 passed in lieu thereof . 6/21/76

H.R. 13777 - Rep. Melcher (D-Mont.)

[To establish a public lands policy by directing the Secretaries of the Interior and Agriculture to prepare and maintain an inventory of all public lands and their resources. Establishes regulations relating to the management, use, development, and conveyance of public and National Forest System lands and the authority of the Secretary of the Interior and the Secretary of Agriculture with respect thereto. (A section in the Act provides the Secretaries with the authority to use aircraft and other mechanized equipment in the management of wild horses and burros, permits the removal and sale of excess animals, and forbids either the unnecessary destruction, or inhumane disposal of wild horses and burros.)]

Reported out of the House Committee on
Interior and Insular Affairs.
House Report 94-1163 5/15/76
Passed House with amendments 7/22/76
Passage vacated and S. 507 passed in
lieu thereof 7/22/76

H.R. 14418 - Rep. Oberstar (D-Minn.)

[This bill directs the Secretary of the Interior to establish a pilot program to compensate persons in Minnesota for damage to livestock caused by the wild eastern timber wolf since the animal was listed as an endangered species; it stipulates that such compensation shall be equal to the fair market value of the damaged livestock or the medical expenses incurred to restore such livestock. Additionally, the bill directs the Secretary to study the damage caused by the wolf and the means of reducing or eliminating such damage.]

Reported out of the House Committee on
 Merchant Marine and Fisheries with
 amendments. House Report 94-1511 . . . 9/13/76
 Rejected by the House 9/20/76

H.R. 15445 - Rep. Leggett (D-Cal.)

[To require the Secretary of Commerce, in consulta-
 tion with the Marine Mammal Commission and the Coastal
 States, to undertake a three-year study of the grey
 and bowhead whales and to report the findings and
 recommendations to the Congress.]

Hearings in the House Committee on
 Merchant Marine and Fisheries 9/10/76
 Reported out of the House Committee
 on Merchant Marine and Fisheries
 with amendments. House Report
 94-1574 9/16/76
 Passed House with amendment 9/20/76
 To Senate Committee on Commerce 9/22/76
 Discharged out of Senate Committee
 on Commerce 9/28/76
 Passed Senate with amendments 9/28/76
 Senate amendments agreed to by House . . 10/1/76
 Signed by President. Public Law 94-532 . 10/17/76

H.J.R. 738 - Rep. McCloskey (R-Cal.)

[Joint resolution providing for Federal participation
 in preserving the Tule Elk population in California by
 making certain Federal lands under the jurisdiction of
 the Secretaries of Interior and Defense reasonably
 available for the preservation and grazing of Tule Elk.]

Reported out of House Committee on
 Merchant Marine and Fisheries
 with no amendment. House
 Report 94-845 3/15/76
 Passed House as reported 3/15/76
 To Senate Committee on Commerce 3/16/76
 Reported out of Senate Committee on
 Commerce with no amendments.
 Senate Report 94-1120 8/5/76
 Passed Senate with no amendments 8/6/76
 Signed by President. Public Law 94-389 . 8/14/76

II. BILLS INTRODUCED INTO CONGRESS

This Section describes only those bills introduced into Congress since the July, 1976, "Legislative Update." Therefore, a complete roster of animal welfare-related bills introduced into the 94th Congress can be obtained only by referring to the June 1975, October 1975, February 1976 and July 1976 "Legislative Update" publications in addition to the present issue.

Endangered Species

H.R. 14407 - Rep. Vigorito (D-Pa.)

To treat the African elephant as an endangered species. To the House Committee on Merchant Marine and Fisheries.

Identical House Bill: H.R. 15289 - Rep.
Vigorito (D-Pa.)

H.R. 14418 - Rep. Oberstar (D-Minn.)

This bill directs the Secretary of the Interior to establish a pilot program to compensate persons in Minnesota for damage to livestock caused by the wild eastern timber wolf since the animal was listed as an endangered species; it stipulates that such compensation shall be equal to the fair market value of the damaged livestock or the medical expenses incurred to restore such livestock; sets forth the formula for determining the Federal government's share of such compensation, and directs the Secretary to study the damage caused by the wolf and the means of reducing or eliminating such damage. To the House Committee on Merchant Marine and Fisheries.

H.R. 15151 - Rep. Steiger (R-Ariz.)

To amend the Endangered Species Act of 1973 exempting endangered species born in captivity from the Act's provisions which ban the trading of such species in domestic and international commerce. To the House Committee on Merchant Marine and Fisheries.

General Environmental Legislation

S. 3887 - Sen. Hart (D-Colo.)

To encourage and assist the States to develop improved programs for the conservation of nongame species of native fish and wildlife. To the Senate Committee on Commerce.

H.R. 14329 - Rep. Johnson (R-Colo.)

To establish a national rangelands rehabilitation and protection program. To the House Committee on Interior and Insular Affairs.

H.R. 15272 - Rep. Oberstar (D-Minn.)

To amend the Fish and Wildlife Coordination Act to more fully consider the impact of water control projects such as dams, irrigation, etc., on fish and wildlife conservation before such projects are approved. To the House Committee on Merchant Marine and Fisheries.

Horses and Burros

S. 3766 - Sen. Williams (D-N.J.)

To amend the Export Administration Act of 1969 to prohibit the export of horses from the United States for the purpose of slaughter. This bill also directs the Secretary of Commerce to issue regulations to insure the humane treatment of horses being exported by ship for purposes other than slaughter. To the Senate Committee on Banking, Housing, and Urban Affairs.

H.R. 15114 - Rep. Florio (D-N.J.)

To amend the Export Administration Act of 1969 to prohibit the export of horses intended for slaughter. To the House Committee on International Relations.

H.R. 15155 - Rep. Ullman (D-Ore.)

This bill permits the Secretary of the Interior to sell free-roaming wild horses and burros captured in the course of management programs; requires the buyers of such animals to guarantee humane treatment and gives priority to those who intend to keep the animals for domestic use; and grants the Secretary the authority to use aircraft and other mechanized equipment in the management of wild horses and burros, provided that all such operations are directly supervised by Federal personnel. Jointly to the House Committees on Merchant Marine and Fisheries, and Interior and Insular Affairs.

H.R. 15462 - Rep. Florio (D-N.J.)

To amend the Horse Protection Act to prohibit the exportation from the United States of horses intended for slaughter, as determined by regulations promulgated by the Secretary of Commerce after consultation with the Secretary of Agriculture. Jointly to the House Committees on Interstate and Foreign Commerce, and International Relations.

Marine Mammals (See also "Whales")

H.R. 14568 - Rep. Young (R-Fla.)

To amend the Marine Mammal Protection Act of 1972 in order to prohibit the issuance of general permits thereunder which authorize the taking of marine mammals in connection with commercial fishing operations. To the House Committee on Merchant Marine and Fisheries.

Identical House Bill: H.R. 14755 - Rep.
Young (R-Fla.)

H.R. 14731 - Rep. Sullivan (D-Mo.)

To amend the Marine Mammal Protection Act of 1972 to provide continued funding for the administration and implementation of the Act. To the House Committee on Merchant Marine and Fisheries.

Migratory Birds

H.R. 15007 - Rep. Sisk (D-Cal.)

To provide for the preservation and enhancement of critical habitat for migratory waterfowl and other wetland-dependent migratory birds of the Pacific flyway in the grassland area of the San Joaquin Valley. To the House Committee on Interior and Insular Affairs.

Whales

S. 3787 - Sen. Weicker (R-Conn.)

This bill prohibits the importation of fish or fish products produced by any foreign nation which (1) is engaged in the killing or capturing of whales and is not a member of the International Whaling Commission (IWC), (2) violates certain Commission regulations, and (3) transfers equipment for the killing or capturing of whales to any other enterprise which engages in whaling within ten years of such transfer. It also sets forth procedures for implementing the embargo by the Secretaries of Commerce, Treasury, and State. Jointly to the Senate Committees on Finance and Commerce.

Identical Companion Bill: H.R. 15262 -
Rep. McCloskey (R-Cal.)

S. 3829 - Sen. Cranston (D-Cal.)

To require the Secretary of Commerce, in consultation with the Marine Mammal Commission and the Coastal States, to undertake a three-year study of the grey and bowhead whale and to report the findings and recommendations to the Congress. In addition, until such time as the report's recommendations are implemented, the bill directs all Federal agencies to utilize their authorities to protect the grey and bowhead whale. To the Senate Committee on Commerce.

H.R. 15394 - Rep. Leggett (D-Cal.)

This bill directs the Secretary of Commerce to study the California grey whale and to make recommendations to the President for the preservation of

such mammals; orders all Federal agencies to protect the grey whale until the recommendations are implemented, and declares a moratorium on the killing or capturing of the grey whale within the 200 mile limit of the United States. It also instructs the Secretary of Commerce, with the Secretary of State, to initiate negotiations with Mexico and Canada for such preservation. Jointly to the House Committees on Merchant Marine and Fisheries, and International Relations.

Identical House Bill: H.R. 15445 - Rep.
Leggett (D-Cal.)

III. BILLS LISTED BY NUMBER WITH CROSS
REFERENCE TO SUBJECT MATTER

- S. 3766 - See "Horses and Burros"
- S. 3787 - See "Whales"
- S. 3829 - See "Whales"
- S. 3887 - See "General Environmental Legislation"

- H.R. 14329 - See "General Environmental Legislation"
- H.R. 14407 - See "Endangered Species"
- H.R. 14418 - See "Endangered Species"
- H.R. 14568 - See "Marine Mammals"

- H.R. 14731 - See "Marine Mammals"
- H.R. 14755 - See "Marine Mammals"
- H.R. 15007 - See "Migratory Birds"
- H.R. 15114 - See "Horses and Burros"

- H.R. 15151 - See "Endangered Species"
- H.R. 15155 - See "Horses and Burros"
- H.R. 15262 - See "Whales"
- H.R. 15272 - See "General Environmental Legislation"

- H.R. 15289 - See "Endangered Species"
- H.R. 15394 - See "Whales"
- H.R. 15445 - See "Whales"
- H.R. 15462 - See "Horses and Burros"

IV. MISCELLANEOUS STATE LEGISLATION, FEDERAL REGULATIONS, COURT CASES, ETC.

Federal Court Upholds Porpoise Quota

The United States Court of Appeals for the Ninth Circuit has affirmed a lower court decision upholding the government's authority to set a quota limiting the number of porpoise allowed killed in the course of tuna fishing operations during 1976. Since the National Marine Fisheries Service has determined that the tuna industry has already exceeded this year's quota, the Appeals Court decision halts any further "fishing on porpoise" for the remainder of this year.

Department of Commerce administrative hearings are underway to promulgate 1977 tuna fishing regulations which, among other things, would set a quota of 29,920 as allowable porpoise mortality for the 1977 fishing season. Final regulations are not expected until mid-February, 1977.

Fouke Fur Saga Continues

The Fouke Fur Company has applied for a permit to import 13,000 South African seal skins taken during the 1976 harvest. The Government of South Africa has certified that they were taken humanely and in accordance with the Marine Mammal Protection Act. HSUS is participating in a suit opposing this action.

Strip Mine Threatens Condor

A proposed phosphate and gypsum strip mine in the Los Padres National Forest threatens the already endangered California Condor. Although a Bureau of Land Management Environmental Impact Statement concluded that such mining would "adversely impact wildlife, particularly threatening the California Condor," the company argues that they are not bound by certain Federal procedures and regulations because they received preliminary approval to prospect prior to either the National Environmental Policy Act of 1970 or the Endangered Species Act of 1973. Presently, the question of whether to grant the permit is pending before the Secretary of the Interior.

Fish v. Dam

The tiny snail darter is threatening to halt construction on a nearly completed \$116 million TVA dam on the Little Tennessee River. Environmentalists claim that the dam will lead to the extinction of the small fish by destroying its habitat. Since the snail darter is officially an "endangered species," it is theoretically illegal to harm either the fish or its habitat. The case is currently pending before the U.S. Court of Appeals for the Sixth Circuit.

Federal Court Rebuffs N.R.A.

Federal District Court Judge Joseph C. Waddy has denied a National Rifle Association request for a temporary restraining order that would have delayed implementation of the Fish and Wildlife Service's new regulations requiring the use of steel shot ammunition in certain waterfowl hunting areas along the Atlantic flyway. The Fish and Wildlife Service argued that the regulations were necessary in order to reduce waterfowl deaths due to lead poisoning. The regulations went into effect September 12, 1976.

Another Round at the CAB

On September 8, 1976, HSUS intervened in Civil Aeronautics Board Docket 26838, the Priority Reserved Air Freight Rate Investigation (PRAFRI). PRAFRI will establish rules governing a new express air freight service which the Board decreed into existence in 1974. HSUS's position has been that air freight is a substantially more humane method of transporting animals over long distances, because of its speed and efficiency, than is surface carriage, and the highly expedited service to be shaped by PRAFRI could be the most humane method available.

The precise import of PRAFRI is not yet clear. A decision in Docket 26310, Rules and Practices Relating to the Acceptance and Carriage of Live Animals Investigation, is still pending a year after the hearing, and the Department of Agriculture is just beginning procedures to promulgate animal transport regulations under the Animal Welfare Act Amendments of 1976. If substantial gains are made in Docket 26310 and the DOA regulations, PRAFRI may prove to be of marginal importance to HSUS's longstanding campaign to improve conditions under which animals travel in interstate commerce.

APHIS Continues to Hit Animal Violators

The United States Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) carried its enforcement of the Horse Protection Act to Montgomery Alabama's Southern Championship Charity Horse Show. Three Alabama horse trainers have been charged with soring their respective horses in violation of the Act. Because of APHIS' vigilance, two have pleaded guilty and were fined by Federal Magistrates. The third trainer went to trial on December 14, 1976, and was acquitted.

In other action APHIS has charged two separate animal dealers with using inadequate containers and sloppy book-keeping in the shipment of animals, a violation of the Animal Welfare Act. Finally, the owner of a breeding laboratory has been charged with failure to pay two years' license fees due under the Act.

Landmark Malpractice Suit

A suit which may change doctrines determining the valuation of pets under the law has been filed in the Circuit Court of Montgomery County, Maryland. Dr. Alice Koller, a Harvard Ph.D. in philosophy, filed a complaint against the Ambassador Animal Hospital and its veterinarians, alleging acts constituting malpractice from failure to adequately treat her German Shepherd, Logos, who died while under the defendants' care in March, 1975. Dr. Koller also alleges outrageous and malicious conduct on defendants' parts in their alleged attempts to conceal their mistakes, in allegedly keeping Logos under unsanitary and disgusting conditions while he was at the hospital, and in allegedly returning the corpse to the plaintiff in a garbage bag with its head hanging out.

Under established doctrines of recovery, Dr. Koller would be entitled to recover only the fair market value of her dog -- a few hundred dollars at most. Dr. Koller is instead asking for \$300,000, based largely on emotional and physical suffering incurred as a result of defendants' acts toward her dog. Such a damage recovery would constitute a novel recognition by the law of the great intrinsic value which animals, particularly pets, can have to their owners. Therein lies the importance of this case.

Dr. Koller feels that veterinarians, and other persons professionally responsible for the welfare of animals, will be more attentive to animal suffering, which they can prevent, if such persons are made to recognize that each of the animals they deal with is valuable in monetary terms.