



10. ANIMAL WELFARE ACT

[As Amended Through Public Law 108-302, August 17, 2004]



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August 17, 2004

[Note: This table of contents is not part of the Animal Welfare Act (7 U.S.C. 2131 et seq.), but is added for the convenience of the reader. The numbers in brackets refer to the corresponding section number in title 7, United States Code. Section headings in brackets are not part of the law, but are added for the convenience of the reader.]

ANIMAL WELFARE ACT

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10. ANIMAL WELFARE ACT

AN ACT To authorize the Secretary of Agriculture to regulate the transportation, sale, and handling of dogs, cats, and certain other animals intended to be used for purposes of research or experimentation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SHORT TITLE AND FINDINGS]

SECTION 1. [7 U.S.C. 2131] (a) This Act may be cited as the “Animal Welfare Act”.

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

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

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

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

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

[DEFINITIONS]

SEC. 2. [7 U.S.C. 2132] When used in this Act—

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

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

(c) The term “commerce” means trade, traffic, 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).¹

(d) The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin

¹ In subsection (c)(2), the period probably should be a semicolon.

Islands, Guam, America Samoa, or any other territory or possession of the United States;

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

(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;

(g) The term “animal” means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warm-blooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet; but such term excludes (1) birds, rats of the genus *Rattus*, and mice of the genus *Mus*, bred for use in research, (2) horses not used for research purposes, and (3) other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. With respect to a dog, the term means all dogs including those used for hunting, security, or breeding purposes;

(h) The term “exhibitor” means any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation, as determined by the Secretary, and such term includes carnivals, circuses, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and country fairs, livestock shows, rodeos, purebred dog and cat shows, and any other fairs or exhibi-

tions intended to advance agricultural arts and sciences, as may be determined by the Secretary;

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

(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;

(k) The term “Federal agency” means an Executive agency as such term is defined in section 105 of title 5, United States Code, and with respect to any research facility means the agency from which the research facility receives a Federal award for the conduct of research, experimentation, or testing, involving the use of animals;

(l) The term “Federal award for the conduct of research, experimentation, or testing, involving the use of animals” means any mechanism (including a grant, award, loan, contract, or cooperative agreement) under which Federal funds are provided to support the conduct of such research.¹

(m) The term “quorum” means a majority of the Committee members.

(n) The term “Committee” means the Institutional Animal Committee established under section 13(b); and

(o) The term “Federal research facility” means each department, agency, or instrumentality of the United States which uses live animals for research or experimentation.

[LICENSES]

SEC. 3. [7 U.S.C. 2133] The Secretary shall issue licenses to dealers and exhibitors upon application therefor in such form and manner as he may prescribe and upon payment of such fee established pursuant to section 23 of this Act; *Provided*, That no such license shall be issued until the dealer or exhibitor shall have demonstrated that his facilities comply with the standards promulgated by the Secretary pursuant to section 13 of this Act: *Provided, however*, That any retail pet store or other person who derives less than a substantial portion of his income (as determined by the Secretary) from the breeding and raising of dogs or cats on his own premises and sells any such dog or cat to a dealer or research facility shall not be required to obtain a license as a dealer or exhibitor under this Act. The Secretary is further authorized to license, as dealers or exhibitors, persons who do not qualify as dealers or exhibitors within the meaning of this Act upon such persons' complying with the requirements specified above and agreeing, in writing, to comply with all the requirements of this Act and the regulations promulgated by the Secretary hereunder.

¹In subsection (l), the period probably should be a semicolon.

[SALE OR TRANSPORTATION WITHOUT LICENSE]

SEC. 4. [7 U.S.C. 2134] No dealer or exhibitor shall sell or offer to sell or transport or offer for transportation, in commerce, to any research facility or for exhibition or for use as a pet any animal, or buy, sell, offer to buy or sell, transport or offer for transportation, affecting commerce, to or from another dealer or exhibitor under this Act any animal, unless and until such dealer or exhibitor shall have obtained a license from the Secretary and such license shall not have been suspended or revoked.

[HOLDING PERIOD]

SEC. 5. [7 U.S.C. 2135] No dealer or exhibitor shall sell or otherwise dispose of any dog or cat within a period of five business days after the acquisition of such animal or within such other period as may be specified by the Secretary: *Provided*, That operators of auction sales subject to section 12 of this Act shall not be required to comply with the provisions of this section.

[REGISTRATION]

SEC. 6. [7 U.S.C. 2136] Every research facility, every intermediate handler, every carrier, and every exhibitor not licensed under section 3 of this Act shall register with the Secretary in accordance with such rules and regulations as he may prescribe.

[PURCHASE WITHOUT LICENSE]

SEC. 7. [7 U.S.C. 2137] It shall be unlawful for any research facility to purchase any dog or cat from any person except an operator of an auction sale subject to section 12 of this Act or a person holding a valid license as a dealer or exhibitor issued by the Secretary pursuant to this Act unless such person is exempted from obtaining such license under section 3 of this Act.

[GOVERNMENT PURCHASES]

SEC. 8. [7 U.S.C. 2138] No department, agency, or instrumentality of the United States which uses animals for research or experimentation or exhibition shall purchase or otherwise acquire any dog or cat for such purposes from any person except an operator of an auction sale subject to section 12 of this Act or a person holding a valid license as a dealer or exhibitor issued by the Secretary pursuant to this Act unless such person is exempted from obtaining such license under section 3 of this Act.

[AGENCY RELATIONSHIP]

SEC. 9. [7 U.S.C. 2139] When construing or enforcing the provisions of this Act, the act, omission, or failure of any person acting for or employed by a research facility, a dealer, or an exhibitor or a person licensed as a dealer or an exhibitor pursuant to the second sentence of section 3, or an operator of an auction sale subject to section 12 of this Act, or an intermediate handler, or a carrier, within the scope of his employment or office, shall be deemed the act, mission, or failure of such research facility, dealer, exhibitor,

licensee, operator of an auction sale, intermediate handler, or carrier, as well as of such person.

[RECORD KEEPKEEPING]

SEC. 10. [7 U.S.C. 2140] Dealers and exhibitors shall make and retain for such reasonable period of time as the Secretary may prescribe, such records with respect to the purchase, sale, transportation, identification, and previous ownership of animals as the Secretary may prescribe. Research facilities shall make and retain such records only with respect to the purchase, sale, transportation, identification, and previous ownership of live dogs and cats. At the request of the Secretary, any regulatory agency of the Federal Government which requires records to be maintained by intermediate handlers and carriers with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, shall require there to be included in such forms, and intermediate handlers and carriers shall include in such forms, such information as the Secretary may require for the effective administration of this Act. Such information shall be retained for such reasonable period of time as the Secretary may prescribe. If regulatory agencies of the Federal Government do not prescribe requirements for any such forms, intermediate handlers and carriers shall make an retain for such reasonable period as the Secretary may prescribe such records with respect to the transportation, receiving, handling, and delivery of animals as the Secretary may prescribe. Such records shall be made available at all reasonable times for inspection and copying by the Secretary.

[IDENTIFICATION]

SEC. 11. [7 U.S.C. 2141] All animals delivered for transportation, transported, purchased, or sold, in commerce, by a dealer or exhibitor shall be marked or identified at such time and in such humane manner as the Secretary may prescribe: *Provided*, That only live dogs and cats need so marked or identified by a research facility.

[HUMANE STANDARDS AT AUCTION SALES]

SEC. 12. [7 U.S.C. 2142] The Secretary is authorized to promulgate humane standards and recordkeeping requirements governing the purchase, handling, or sale of animals, in commerce, by dealers, research facilities, and exhibitors at auction sales and by the operators of such auction sales. The Secretary is also authorized to require the licensing of operators of auction sales where any dogs or cats are sold, in commerce, under such conditions as he may prescribe, and upon payment of such fee as prescribed by the Secretary under section 23 of this Act.

[HUMANE STANDARDS GENERALLY]

SEC. 13. [7 U.S.C. 2143] (a)(1) The Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors.

(2) The standards described in paragraph (1) shall include minimum requirements—

(A) for handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, and separation by species where the Secretary finds necessary for humane handling, care, or treatment of animals; and

(B) for exercise of dogs, a determined by an attending veterinarian in accordance with general standards promulgated by the Secretary, and for a physical environment adequate to promote the psychological well-being of primates.

(3) In addition to the requirements under paragraph (2), the standards described in paragraph (1) shall, with respect to animals in research facilities, include requirements—

(A) for animal care, treatment, and practices in experimental procedures to ensure that animal pain and distress are minimized, including adequate veterinary care with the appropriate use of anesthetic, analgesic, tranquilizing drugs, or euthanasia;

(B) that the principal investigator considers alternatives to any procedure likely to produce pain to or distress in an experimental animal;

(C) in any practice which could cause pain to animals—

(i) that a doctor of veterinary medicine is consulted in the planning of such procedures;

(ii) for the use of tranquilizers, analgesics, and anesthetics;

(iii) for pre-surgical and post-surgical care by laboratory workers, in accordance with established veterinary medical and nursing procedures;

(iv) against the use of paralytics without anesthesia; and

(v) that the withholding of tranquilizers, anesthesia, analgesia, or euthanasia when scientifically necessary shall continue for only the necessary period of time;

(D) that no animal is used in more than one major operative experiment from which it is allowed to recover except in cases of—

(i) scientific necessity; or

(ii) other special circumstances as determined by the Secretary; and

(E) that exceptions to such standards may be made only when specified by research protocol and that any such exception shall be detailed and explained in a report outlined under paragraph (7) and filed with the Institutional Animal Committee.

(4) 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.

(5) In promulgating and enforcing standards established pursuant to this section, the Secretary is authorized and directed to consult experts, including outside consultants where indicated.

(6)(A) Nothing in this Act—

(i) except as provided in paragraphs¹ (7) of this subsection, shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to the design, outlines, or guidelines of actual research or experimentation by a research facility as determined by such research facility;

(ii) except as provided² subparagraphs (A) and (C)(ii) through (v) of paragraph (3) and paragraph (7) of this subsection, shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to the performance of actual research or experimentation by a research facility as determined by such research facility; and

(iii) shall authorize the Secretary, during inspection, to interrupt the conduct of actual research or experimentation.

(B) No rule, regulation, order, or part of this Act shall be construed to require a research facility to disclose publicly or to the Institutional Animal Committee during its inspection, trade secrets or commercial or financial information which is privileged or confidential.

(7)(A) The Secretary shall require each research facility to show upon inspection, and to report at least annually, that the provisions of this Act are being followed and that professionally acceptable standards governing the care, treatment, and use of animals are being followed by the research facility during actual research or experimentation.

(B) In complying with subparagraph (A), such research facilities shall provide—

(i) information on procedures likely to produce pain or distress in any animal and assurances demonstrating that the principal investigator considered alternatives to those procedures;

(ii) assurances satisfactory to the Secretary that such facility is adhering to the standards described in this section; and

(iii) an explanation for any deviation from the standards promulgated under this section.

(8) Paragraph (1) shall not prohibit any State (or a political subdivision of such State) from promulgating standards in addition to those standards promulgated by the Secretary under paragraph (1).

(b)(1) The Secretary shall require that each research facility establish at least one Committee. Each Committee shall be appointed by the chief executive officer of each such research facility and shall be composed of not fewer than three members. Such members

¹ In paragraph (6)(A)(i), the reference probably should be "paragraph".

² In paragraph (6)(A)(ii), "provided" should be followed by "in".

shall possess sufficient ability to assess animal care, treatment, and practices in experimental research as determined by the needs of the research facility and shall represent society's concerns regarding the welfare of animal subjects used as such facility. Of the members of the Committee—

(A) at least one member shall be a doctor of veterinary medicine;

(B) at least one member—

(i) shall not be affiliated in any way with such facility other than as a member of the Committee;

(ii) shall not be a member of the immediate family of a person who is affiliated with such facility; and

(iii) is intended to provide representation for general community interests in the proper care and treatment of animals; and

(C) in those cases where the Committee consists of more than three members, not more than three members shall be from the same administrative unit of such facility.

(2) A quorum shall be required for all formal actions of the Committee, including inspections under paragraph (3).

(3) The Committee shall inspect at least semiannually all animal study areas and animal facilities of such research facility and review as part of the inspection—

(A) practices involving pain to animals, and

(B) the condition of animals,

to ensure compliance with the provisions of this Act to minimize pain and distress to animals. Exceptions to the requirements of inspection of such study areas may be made by the Secretary if animals are studied in their natural environment and the study area is prohibitive to easy access.

(4)(A) The Committee shall file an inspection certification report of each inspection at the research facility. Such report shall—

(i) be signed by a majority of the Committee members involved in the inspection;

(ii) include reports of any violation of the standards promulgated, or assurances required, by the Secretary, including any deficient conditions of animal care or treatment, any deviations of research practices from originally approved proposals that adversely affect animal welfare, any notification to the facility regarding such conditions, and any corrections made thereafter;

(iii) include any minority views of the Committee; and

(iv) include any other information pertinent to the activities of the Committee.

(B) Such report shall remain on file for at least three years at the research facility and shall be available for inspection by the Animal and Plant Health Inspection Service and any funding Federal agency.

(C) In order to give the research facility an opportunity to correct any deficiencies or deviations discovered by reason of paragraph (3), the Committee shall notify the administrative representative of the research facility of any deficiencies or deviations from the provisions of this Act. If, after notification and an opportunity for correction, such deficiencies or deviations remain uncorrected,

the Committee shall notify (in writing) the Animal and Plant Health Inspection Service and the funding Federal agency of such deficiencies or deviations.

(5) The inspection results shall be available to Department of Agriculture inspectors for review during inspections. Department of agriculture inspectors shall forward any Committee inspection records which include reports of uncorrected deficiencies or deviations to the Animal and Plant Health Inspection Service and any funding Federal agency of the project with respect to which such uncorrected deficiencies and deviations occurred.

(c) In the case of Federal research facilities, a Federal Committee shall be established and shall have the same composition and responsibilities provided in subsection (b), except that the Federal Committee shall report deficiencies or deviations to the head of the Federal agency conducting the research rather than to the Animal and Plant Health Inspection Service. The head of the Federal agency conducting the research shall be responsible for—

- (1) all corrective action to be taken at the facility; and
- (2) the granting of all exceptions to inspection protocol.

(d) Each research facility shall provide for the training of scientists, animal technicians, and other personnel involved with animal care and treatment in such facility as required by the Secretary. Such training shall include instruction on—

- (1) the humane practice of animal maintenance and experimentation;
- (2) research or testing methods that minimize or eliminate the use of animals or limit animal pain or distress;
- (3) utilization of the information service at the National Agricultural Library, established under subsection (e); and
- (4) methods whereby deficiencies in animal care and treatment should be reported.

(e) The Secretary shall establish an information service at the National Agricultural Library. Such service shall, in cooperation with the National Library of Medicine, provide information—

- (1) pertinent to employee training;
- (2) which could prevent unintended duplication of animal experimentation as determined by the needs of the research facility; and
- (3) on improved methods of animal experimentation, including methods which could—
 - (A) reduce or replace animal use; and
 - (B) minimize pain and distress to animals, such as anesthetic and analgesic procedures.

(f) In any case in which a Federal agency funding a research project determines that conditions of animal care, treatment, or practice in a particular project have not been in compliance with standards promulgated under this Act, despite notification by the Secretary or such Federal agency to the research facility and an opportunity for correction, such agency shall suspend or revoke Federal support for the project. Any research facility losing Federal support as a result of actions taken under the preceding sentence shall have the right of appeal as provided in sections 701 through 706 of title 5, United States Code.

(f)¹ 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.

(g) 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.

(h) 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.

[STANDARDS FOR FEDERAL FACILITIES]

SEC. 14. [7 U.S.C. 2144] Any department, agency, or instrumentality of the United States having laboratory animal facilities shall comply with the standards and other requirements promulgated by the Secretary for a research facility under sections 13(a), (f), (g), and (h). Any department, agency, or instrumentality of the

¹ See Public Law 99-198, § 1758, 99 Stat. 1650. There are two subsections designated "(f)".

United States exhibiting animals shall comply with the standards promulgated by the Secretary under sections 13(a), (f), (g), and (h).

[AGENCY COOPERATION]

SEC. 15. [7 U.S.C. 2145] (a) The Secretary shall consult and cooperate with other Federal departments, agencies, or instrumentalities concerned with the welfare of animals used for research, experimentation or exhibition or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals when establishing standards pursuant to section 13 and in carrying out the purposes of this Act. The Secretary shall consult with the Secretary of Health and Human Services prior to issuance of regulations. 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 Surface Transportation Board, the Secretary of Transportation, 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.

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

[INVESTIGATIONS AND INSPECTIONS]

SEC. 16. [7 U.S.C. 2146] (a) The Secretary shall make such investigations or inspections as he deems necessary to determine whether any dealer, exhibitor, intermediate handler, carrier, research facility, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provision of this Act or any regulation or standard issued thereunder, and for such purposes, the Secretary shall, at all reasonable times, have access to the places of business and the facilities, animals, and those records required to be kept pursuant to section 10 of any such dealer, exhibitor, intermediate handler, carrier, research facility, or operator of an auction sale. The Secretary shall inspect each research facility at least once each year and, in the case of deficiencies or deviations from the standards promulgated under this Act, shall conduct such follow-up inspections as may be necessary until all deficiencies or deviations from such standards are corrected. The Secretary shall promulgate such rules and regulations as he deems necessary to permit inspectors to confiscate or destroy in a humane manner any animal found to be suffering as a result of a failure to comply with any provision of this Act or any regulation or standard issued thereunder if (1) such animal is held by a dealer, (2) such animal is held by an exhibitor, (3) such animal is held by a research facility and is no longer required by such research facility to carry out the research, test, or experiment for which such ani-

mal has been utilized, (4) such animal is held by an operator of an auction sale, or (5) such animal is held by an intermediate handler or a carrier.

(b) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than \$5,000, or imprisoned not more than three years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punished as provided under sections 1111 and 1114 of title 18, United States Code.

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

[ADMITTANCE OF INSPECTORS]

SEC. 17. [7 U.S.C. 2147] The Secretary shall promulgate rules and regulations requiring dealers, exhibitors, research facilities, and operators of auction sales subject to section 12 of this Act to permit inspection of their animals and records at reasonable hours upon request by legally constituted law enforcement agencies in search of lost animals.

[SEC. 18. Repealed.]

[REVOCATION OF LICENSE, CIVIL PENALTIES, APPEAL, FINES AND
IMPRISONMENT]

SEC. 19. [7 U.S.C. 2149] (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 \$2,500 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a civil penalty of \$500¹ 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 to 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

¹Public Law 99-198, § 1775(a)(2), 99 Stat. 1650 attempted to amend the sixth sentence by striking "\$500" and inserting "\$1,500". The amendment could not be executed since "\$500" occurs only in the seventh sentence.

whole or in part), or to determine the validity of the Secretary' 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 \$2,500, 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. 20. Repealed.]

[RULES]

SEC. 21. [7 U.S.C. 2151] The Secretary is authorized to promulgate such rules, regulations, and orders as he may deem necessary in order to effectuate the purposes of this Act.

[SEVERABILITY]

SEC. 22. [7 U.S.C. 2152] If any provision of this Act or the application of any such provision to any person or circumstances shall be held invalid, the remainder of this Act and the application of any such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

[ASSESSMENT OF FEES]

SEC. 23. [7 U.S.C. 2153] The Secretary shall charge, assess, and cause to be collected reasonable fees for licenses issued. Such fees shall be adjusted on an equitable basis taking into consideration the type and nature of the operations to be licensed and shall be deposited and covered into the Treasury as miscellaneous receipts. There are hereby authorized to be appropriated such funds as Congress may from time to time provide: *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.

[TIME FOR RULES]

SEC. 24. [7 U.S.C. 2154] The regulations referred to in section 10 and section 13 shall be prescribed by the Secretary as soon as reasonable but not later than six months from the date of enactment of this Act. Additions and amendments thereto may be prescribed from time to time as may be necessary or advisable. Compliance by dealers with the provisions of this Act and such regulations shall commence ninety days after the promulgation of such regulations. Compliance by research facilities with the provisions of this Act and such regulations shall commence six months after the promulgation of such regulations, except that the Secretary may

grant extensions of time to research facilities which do not comply with the standards prescribed by the Secretary pursuant to section 13 of this Act provided that the Secretary determines that there is evidence that the research facilities will meet such standards within a reasonable time. Notwithstanding the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this Act, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence 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.

[ANNUAL REPORT]

SEC. 25. [7 U.S.C. 2155] Not later than March of each year following the enactment of the "Animal Welfare Act of 1970", the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a comprehensive and detailed written report with respect to—

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

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

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

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

(5) the information and recommendations described in section 11 of the Horse Protection Act of 1970 (15 U.S.C. 1830).

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

[ANIMAL FIGHTING]

SEC. 26. [7 U.S.C. 2156] (a) SPONSORING OR EXHIBITING AN ANIMAL IN AN ANIMAL FIGHTING VENTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly sponsor or exhibit an animal in an animal fighting venture, if any animal in the venture was moved in interstate or foreign commerce.

(2) SPECIAL RULE FOR CERTAIN STATES.—With respect to fighting ventures involving live birds in a State where it would not be in violation of the law, it shall be unlawful under this subsection for a person to sponsor or exhibit a bird in the fighting venture only if the person knew that any bird in the fighting venture was knowingly bought, sold, delivered, transported, or received in interstate or foreign commerce for the purpose of participation in the fighting venture.

(b) It shall be unlawful for any person to knowingly sell, buy, transport, deliver, or receive 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 subsection (c), 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) PENALTIES.—Any person who violates subsection (a), (b), or (c) shall be fined not more than \$15,000 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 Investigations, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this paragraph (f). Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane

means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

(g) For purposes of this section—

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

(2) the term “interstate or foreign commerce” means—

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

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

(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, 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) [Omitted-Amendment]

[PROTECTION OF CONFIDENTIAL INFORMATION]

SEC. 27. [7 U.S.C. 2157] (a) It shall be unlawful for any member of an Institutional Animal Committee to release any confidential information of the research facility including any information that concerns or relates to—

(1) the trade secrets, processes, operations, style of work, or apparatus; or

(2) the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures, of the research facility.

(b) It shall be unlawful for any member of such Committee—

(1) to use or attempt to use to its advantages; or

(2) to reveal to any other person.

any information which is entitled to protection as confidential information under subsection (a).

(c) A violation of subsection (a) or (b) is punishable by—

- (1) removal from such Committee; and
- (2)(A) a fine of not more than \$1,000 and imprisonment of not more than one year; or
- (B) if such violation is willful, a fine of not more than \$10,000 and imprisonment of not more than three years.
- (d) Any person, including any research facility, injured in its business or property by reason of a violation of this section may recover all actual and consequential damages sustained by such person and the cost of the suit including a reasonable attorney's fee.
- (e) Nothing in this section shall be construed to affect any other rights of a person injured in its business or property by reason of a violation of this section. Subsection (d) shall not be construed to limit the exercise of any such rights arising out of or relating to a violation of subsection (a) and (b).

SEC. 28. [7 U.S.C. 2158] PROTECTION OF PETS.

(a) **HOLDING PERIOD.**—

(1) **REQUIREMENT.**—In the case of each dog or cat acquired by an entity described in paragraph (2), such entity shall hold and care for such dog or cat for a period of not less than five days to enable such dog or cat to be recovered by its original owner or adopted by other individuals before such entity sells such dog or cat to a dealer.

(2) **ENTITIES DESCRIBED.**—An entity subject to paragraph (1) is—

(A) each State, county, city owned and operated pound or shelter;

(B) each private entity established for the purpose of caring for animals, such as a humane society, or other organization that is under contract with a State, county, or city that operates as a pound or shelter and that releases animals on a voluntary basis; and

(C) each research facility licensed by the Department of Agriculture.

(b) **CERTIFICATION.**—

(1) **IN GENERAL.**—A dealer may not sell, provide, or make available to any individual or entity a random source dog or cat unless such dealer provides the recipient with a valid certification that meets the requirements of paragraph (2) and indicates compliance with subsection (a).

(2) **REQUIREMENTS.**—A valid certification shall contain—

(A) the name, address, and Department of Agriculture license or registration number (if such number exists) of the dealer;

(B) the name, address, Department of Agriculture license or registration number (if such number exists), and the signature of the recipient of the dog or cat;

(C) a description of the dog or cat being provided that shall include—

(i) the species and breed or type of such;

(ii) the sex of such;

(iii) the date of birth (if known) of such;

(iv) the color and any distinctive marking of such;

and

(v) any other information that the Secretary by regulation shall determine to be appropriate;

(D) the name and address of the person, pound, or shelter from which the dog or cat was purchased or otherwise acquired by the dealer, and an assurance that such person, pound, or shelter was notified that such dog or cat may be used for research or educational purposes;

(E) the date of the purchase or acquisition referred to in subparagraph (D);

(F) a statement by the pound or shelter (if the dealer acquired the dog or cat from such) that it satisfied the requirements of subsection (a); and

(G) any other information that the Secretary of agriculture by regulation shall determine appropriate.

(3) RECORDS.—The original certification required under paragraph (1) shall accompany the shipment of a dog or cat to be sold, provided, or otherwise made available by the dealer, and shall be kept and maintained by the research facility for a period of at least one year for enforcement purposes. The dealer shall retain one copy of the certification provided under this paragraph for a period of at least one year for enforcement purposes.

(4) TRANSFERS.—In instances where one research facility transfers animals to another research facility a copy of the certificate must accompany such transfer.

(5) MODIFICATION.—Certification requirements may be modified to reflect technological advances in identification techniques, such as microchip technology, if the Secretary determines that adequate information such as described in this section, will be collected, transferred, and maintained through such technology.

(c) ENFORCEMENT.—

(1) IN GENERAL.—Dealers who fail to act according to the requirements of this section or who include false information in the certification required under subsection (b), shall be subject to the penalties provided for under section 19.

(2) Subsequent violations.—Any dealer who violates this section more than one time shall be subject to a fine of \$5,000 per day or cat acquired or sold in violation of this section.

(3) PERMANENT REVOCATIONS.—Any dealer who violates this section three or more times shall have such dealers license permanently revoked.

(d) REGULATION.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

SEC. 29. [7 U.S.C. 2159] AUTHORITY TO APPLY FOR INJUNCTIONS.

(a) REQUEST.—Whenever the Secretary has reason to believe that any dealer, carrier, exhibitor, or intermediate handler is dealing in stolen animals, or is placing the health of any animal in serious danger in violation of this Act or the regulations or standards promulgated thereunder, the Secretary shall notify the Attorney General, who may apply to the United States district court in which such dealer, carrier, exhibitor, or intermediate handler re-

sides or conducts business for a temporary restraining order or injunction to prevent any such person from operating in violation of this Act or the regulations and standards prescribed under this Act.

(b) ISSUANCE.—The court shall, upon a proper showing, issue a temporary restraining order or injunction under subsection (a) without bond. Such injunction or order shall remain in effect until a complaint pursuant to section 19 is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the Secretary has become final and effective or is set aside on appellate review. Attorneys of the Department of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action brought under this section.