

.....
(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To amend the Animal Welfare Act to increase enforcement with respect to violations of that Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. AXNE introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Animal Welfare Act to increase enforcement with respect to violations of that Act, and for other purposes.

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

3 **SECTION 1. INCREASING USDA ENFORCEMENT OF VIOLA-**
4 **TIONS OF ANIMAL WELFARE ACT.**

5 (a) VIOLATION DEFINED.—Section 2 of the Animal
6 Welfare Act (7 U.S.C. 2132) is amended by adding at the
7 end the following:

8 “(p) The term ‘violation’ means, with respect to a
9 provision of this Act or any regulation or standard issued

1 thereunder, any deficiency, deviation, or other failure to
2 comply with any such provision or regulation or stand-
3 ard.”.

4 (b) INSPECTIONS AND INVESTIGATIONS.—Section
5 16(a) of the Animal Welfare Act (7 U.S.C. 2146(a)) is
6 amended to read as follows:

7 “(a)(1) The Secretary shall determine whether any
8 dealer, exhibitor, intermediate handler, carrier, research
9 facility, or operator of an auction sale subject to section
10 12 of this Act, has violated or is violating any provision
11 of this Act or any regulation or standard issued there-
12 under.

13 “(2) The Secretary shall, at all reasonable times,
14 have access to the places of business and the facilities,
15 animals, and those records required to be kept pursuant
16 to section 10 of any such dealer, exhibitor, intermediate
17 handler, carrier, research facility, or operator of an auc-
18 tion sale.

19 “(3) The Secretary shall make such inspections and
20 investigations necessary to make such a determination and
21 shall document and record a detailed description of any
22 violation observed during such inspections and investiga-
23 tions. The Secretary shall inspect each research facility
24 and the premises of each dealer, and each exhibitor, in-
25 cluding any properties, animals, facilities, vehicles, equip-

1 ments or other premises used or intended for use in an
2 activity subject to regulation under this Act, at least once
3 each year and, in the case of any violation of this Act,
4 shall conduct such follow-up inspections as may be nec-
5 essary until all such violations are corrected.

6 “(4)(A) The Secretary shall promulgate such rules
7 and regulations necessary to require inspectors to con-
8 fiscate or destroy in a humane manner any animal de-
9 scribed in subparagraph (B). Such confiscation shall occur
10 promptly upon discovery during an inspection or investiga-
11 tion conducted pursuant to this section of an animal meet-
12 ing the criteria specified in clause (i) of such subpara-
13 graph. Any dealer, exhibitor, intermediate handler, or car-
14 rier that has been notified of the intent of an inspector
15 to confiscate such an animal shall be prohibited from de-
16 stroying that animal, in any manner, and until the Sec-
17 retary has completed that confiscation, shall be prohibited
18 from destroying any other animal in their ownership or
19 possession, without prior written consent to do so from
20 the Secretary.

21 “(B) An animal described in this subparagraph is an
22 animal that is—

23 “(i) found during an inspection or investigation
24 conducted pursuant to this section to be suffering
25 physical or psychological harm as a result of a fail-

1 ure to comply with any provision of this Act or any
2 regulation or standard issued thereunder; and

3 “(ii) held by a dealer, exhibitor, an operator of
4 an auction sale, an intermediate handler or carrier,
5 or a research facility, and in the case of an animal
6 held by a research facility, no longer required by
7 such research facility to carry out the research, test,
8 or experiment for which such animal has been uti-
9 lized.”.

10 (c) AGENCY COOPERATION.—Section 15 of the Ani-
11 mal Welfare Act (7 U.S.C. 2145) is amended by adding
12 at the end the following:

13 “(c) The Secretary shall provide a copy of all records
14 documenting any violation identified during inspection or
15 investigation pursuant to section 16 to State, local, and
16 municipal animal control or law enforcement officials of
17 appropriate jurisdiction within 24 hours of such inspection
18 or investigation.”.

19 (d) REVOCATION OF LICENSE, CIVIL PENALTIES, AP-
20 PEAL, FINES AND IMPRISONMENT.—Section 19(b) of the
21 Animal Welfare Act (7 U.S.C. 2149(b)) is amended to
22 read as follows:

23 “(b)(1) Any dealer, exhibitor, research facility, inter-
24 mediate handler, carrier, or operator of an auction sale
25 subject to section 12 of this Act, that violates any provi-

1 sion of this Act, or any rule, regulation, or standard pro-
2 mulgated by the Secretary thereunder, shall be subject to
3 a civil penalty by the Secretary of not more than \$10,000
4 for each such violation, and the Secretary shall also make
5 an order that such person shall cease and desist from con-
6 tinuing such violation. Each violation and each day during
7 which a violation continues shall be a separate offense.

8 “(2) Verified delivery of an inspection report pre-
9 pared pursuant to section 16 shall serve as notice for pur-
10 poses of this section. No penalty shall be assessed or cease
11 and desist order issued unless such person is given notice
12 and opportunity to be heard with respect to the alleged
13 violation, and the order of the Secretary assessing a pen-
14 alty and making a cease and desist order shall be final
15 and conclusive unless the affected person files an appeal
16 from the Secretary’s order with the appropriate United
17 States Court of Appeals.

18 “(3) A hearing under this section shall be conducted
19 by, at minimum, one veterinarian, and two additional ani-
20 mal care specialists or directors. A hearing under this sec-
21 tion shall take place within 21 days after notice of the
22 violation has been delivered unless the Secretary identifies
23 a reasonable basis for continuance.

24 “(4) The Secretary shall give due consideration to the
25 appropriateness of the penalty with respect to the size of

1 the business of the person involved, the gravity of the vio-
2 lation, the person's good faith, and the history of previous
3 violations. Any such penalty shall be calculated on a per
4 animal and per violation basis and may not be reduced
5 by 10 percent or more. The Secretary shall designate a
6 responsible party within the Department of Agriculture to
7 establish penalty guidelines for violations and to verify
8 that the Department adheres to such guidelines. Such
9 guidelines shall be established in a manner to reasonably
10 discourage future violations.

11 “(5) Upon any failure to pay the penalty assessed by
12 a final order under this section, the Secretary shall request
13 the Attorney General to institute a civil action in a district
14 court of the United States or other United States court
15 for any district in which such person is found or resides
16 or transacts business, to collect the penalty, and such
17 court shall have jurisdiction to hear and decide any such
18 action. Any person who knowingly fails to obey a cease
19 and desist order made by the Secretary under this section
20 shall be subject to a civil penalty of \$1,500.”.