

AMENDMENT TO RULES COMMITTEE PRINT

119–22

OFFERED BY MR. QUIGLEY OF ILLINOIS

At the end of part I of subtitle A of title XII, add the following:

1 **SEC. ____ . INCREASING USDA ENFORCEMENT OF VIOLA-**
2 **TIONS OF ANIMAL WELFARE ACT.**

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

6 “(p) The term ‘violation’ means, with respect to a
7 provision of this Act or any regulation or standard issued
8 thereunder, any deficiency, deviation, or other failure to
9 comply with any such provision or regulation or stand-
10 ard.”.

11 (b) INSPECTIONS AND INVESTIGATIONS.—Section
12 16(a) of the Animal Welfare Act (7 U.S.C. 2146(a)) is
13 amended to read as follows:

14 “(a)(1) The Secretary shall determine whether any
15 dealer, exhibitor, intermediate handler, carrier, research
16 facility, or operator of an auction sale subject to section
17 12 of this Act, has violated or is violating any provision

1 of this Act or any regulation or standard issued there-
2 under.

3 “(2) The Secretary shall, at all reasonable times,
4 have access to the places of business and the facilities,
5 animals, and those records required to be kept pursuant
6 to section 10 of any such dealer, exhibitor, intermediate
7 handler, carrier, research facility, or operator of an auc-
8 tion sale.

9 “(3) The Secretary shall make such inspections and
10 investigations necessary to make such a determination and
11 shall document and record a detailed description of any
12 violation observed during such inspections and investiga-
13 tions. The Secretary shall inspect each research facility
14 and the premises of each dealer, and each exhibitor, in-
15 cluding any properties, animals, facilities, vehicles, equip-
16 ments or other premises used or intended for use in an
17 activity subject to regulation under this Act, at least once
18 each year and, in the case of any violation of this Act,
19 shall conduct such follow-up inspections as may be nec-
20 essary until all such violations are corrected.

21 “(4)(A) The Secretary shall promulgate such rules
22 and regulations necessary to require inspectors to con-
23 fiscate or destroy in a humane manner any animal de-
24 scribed in subparagraph (B). Such confiscation shall occur
25 promptly upon discovery during an inspection or investiga-

1 tion conducted pursuant to this section of an animal meet-
2 ing the criteria specified in clause (i) of such subpara-
3 graph. Any dealer, exhibitor, intermediate handler, or car-
4 rier that has been notified of the intent of an inspector
5 to confiscate such an animal shall be prohibited from de-
6 stroying that animal, in any manner, and until the Sec-
7 retary has completed that confiscation, shall be prohibited
8 from destroying any other animal in their ownership or
9 possession, without prior written consent to do so from
10 the Secretary.

11 “(B) An animal described in this subparagraph is an
12 animal that is—

13 “(i) found during an inspection or investigation
14 conducted pursuant to this section to be suffering
15 physical or psychological harm as a result of a fail-
16 ure to comply with any provision of this Act or any
17 regulation or standard issued thereunder; and

18 “(ii) held by a dealer, exhibitor, an operator of
19 an auction sale, an intermediate handler or carrier,
20 or a research facility, and in the case of an animal
21 held by a research facility, no longer required by
22 such research facility to carry out the research, test,
23 or experiment for which such animal has been uti-
24 lized.”.

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

4 “(c) The Secretary shall provide a copy of all records
5 documenting any violation identified during inspection or
6 investigation pursuant to section 16 to State, local, and
7 municipal animal control or law enforcement officials of
8 appropriate jurisdiction within 24 hours of such inspection
9 or investigation.”.

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

14 “(b)(1) Any dealer, exhibitor, research facility, inter-
15 mediate handler, carrier, or operator of an auction sale
16 subject to section 12 of this Act, that violates any provi-
17 sion of this Act, or any rule, regulation, or standard pro-
18 mulgated by the Secretary thereunder, shall be subject to
19 a civil penalty by the Secretary of not more than \$10,000
20 for each such violation, and the Secretary shall also make
21 an order that such person shall cease and desist from con-
22 tinuing such violation. Each violation and each day during
23 which a violation continues shall be a separate offense.

24 “(2) Verified delivery of an inspection report pre-
25 pared pursuant to section 16 shall serve as notice for pur-

1 poses of this section. No penalty shall be assessed or cease
2 and desist order issued unless such person is given notice
3 and opportunity to be heard with respect to the alleged
4 violation, and the order of the Secretary assessing a pen-
5 alty and making a cease and desist order shall be final
6 and conclusive unless the affected person files an appeal
7 from the Secretary's order with the appropriate United
8 States Court of Appeals.

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

15 “(4) The Secretary shall give due consideration to the
16 appropriateness of the penalty with respect to the size of
17 the business of the person involved, the gravity of the vio-
18 lation, the person's good faith, and the history of previous
19 violations. Any such penalty shall be calculated on a per
20 animal and per violation basis and may not be reduced
21 by 10 percent or more. The Secretary shall designate a
22 responsible party within the Department of Agriculture to
23 establish penalty guidelines for violations and to verify
24 that the Department adheres to such guidelines. Such

1 guidelines shall be established in a manner to reasonably
2 discourage future violations.

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

