

SUBJECT: Decriminalizing export of horsemeat for human consumption overseas

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 4 ayes — Hardcastle, Miller, B. Brown, Swinford

1 nay — Laney

2 absent — Burnam, D. Jones

WITNESSES: For — Don Ward, Livestock Marketing Association of Texas; Lex Smarthwaite, American Paint Horse Association; Jodi Luecke; Steve Hicks, D.V.M.; Sue Harris; Zach Brady, Texas and Southwestern Cattle Raisers Association; (*Registered but did not testify:*) Ross Wilson, Texas Cattle Feeders Association; Steve Westbrook; Jim Weems; Mark Vane, Texas Thoroughbred Association; Robert Turner, Texas Sheep and Goat Raisers Association; Shane Sklar, Independent Cattlemen's Association; Pauline Singleton, Greater Houston Horse Council; Warren Mayberry, Texas Farm Bureau; James Grimm, Texas Poultry Federation; Chris Copeland, Texas Veterinary Medical Association

Against — Robert "Skip" Trimble, Breeders' Cup Ltd., Fasig-Tipton Co., and Thoroughbred Foundation; Anna Starr, Orange Show Foundation; Jay Sabatucci, Humane Society of the United States; Patt Nordyke, Texas Federation of Humane Societies; Cile Holloway, Texas Humane Legislation Network; Susan Hendrix, Society for Animal Protection Legislation; Anne Coller, The Fund for Animals; 13 individuals representing themselves; (*Registered but did not testify:*) Kappy Muenzer, Citizens for Animal Protection; 27 individuals representing themselves

On — Ann Diamond, Tarrant County District Attorney's Office; (*Registered but did not testify:*) Max Coates, Texas Animal Health Commission

BACKGROUND: Agriculture Code, chapter 149 makes it illegal to sell horsemeat for human consumption or to possess horsemeat with the intent to sell it for human consumption. It also is illegal to transfer horsemeat to anyone who intends to sell the meat for human consumption, if the person selling the meat knows or

should know that the person receiving the meat intends to sell it for human consumption. A violation of this chapter is a Class B misdemeanor, punishable by a maximum fine of \$1,000 and/or a jail term of 30 days to two years. Sec. 149.004 outlines prima facie evidence of an offense, including the presence of horsemeat for sale in a retail store or wholesaler's establishment, unless plainly labeled "horsemeat"; the presence of horsemeat commingled with other meat products; the daytime transportation of horsemeat that is not labeled clearly as such; or the delivery or attempted delivery of horsemeat to a restaurant, café, canning, or food processing plant.

In 1919, Congress enacted the Horse Meat Law, requiring that horse meat be inspected by the U.S. Department of Agriculture (USDA) in the same manner as beef or the meat of any other livestock animal. In 1948, Congress enacted a law requiring humane methods of livestock slaughter, and in 1996, it enacted rules for commercial transport of horses across state lines for slaughter.

References to horse slaughter and equine meat products in Texas law are codified in the Texas Meat and Poultry Inspection Act (Health and Safety Code, chapter 433, subchapter B). All animals must be inspected before slaughter, and horse slaughter facilities are subject to state inspections, as are cattle slaughter facilities. Sec. 433.033 governs equine products and requires the conspicuous labeling of horsemeat before it is sold or transported.

Among states, only Texas and California expressly prohibit the sale of horsemeat for human consumption. Eight states expressly allow it, and the other 40 states are silent on the matter. No one has been charged with a crime under Texas' horsemeat ban since the 1950s, when several people were prosecuted for trying to represent horsemeat as beef.

Two foreign-owned horse slaughter plants in Texas — Beltex in Tarrant County and Dallas Crown in Kaufman County — slaughter horses, process the meat, and export it to foreign countries for human consumption. The primary overseas buyers are France, Belgium, Italy, Switzerland, Mexico, and Japan. About 85 percent of the horsemeat processed at Dallas Crown is sold for human consumption.

In February 2002, Rep. Tony Goolsby requested an opinion from Attorney General John Cornyn as to whether the state ban on the sale of horsemeat was

still in force or preempted by federal law, and whether the Texas Department of Agriculture (TDA) had jurisdiction to prosecute violations. In August 2002, Atty. Gen. Cornyn issued an opinion that state law is not preempted by federal law but remains in full force and effect for Texas slaughterhouses, even if the horsemeat is exported to foreign countries, and that original jurisdiction lies with the county court, or concurrently with a criminal district court (JC-0539, August 7, 2002).

Shortly thereafter, the district attorneys of Tarrant and Kaufman counties notified Beltex and Dallas Crown that they were violating state law. Before a state criminal action could be filed, the slaughter plants filed a civil action in federal court against both district attorneys' offices, maintaining that the slaughter plants are exempt from criminal prosecution because the federal government has so overtaken the meat inspection laws that state law no longer applies. The case is pending in federal court.

DIGEST:

CSHB 1324 would amend Agriculture Code, chapter 149 to make it illegal to sell horsemeat for human consumption or to possess horsemeat with the intent to sell it for human consumption in the United States. A person could not transfer horsemeat to anyone who intended to sell the horsemeat for human consumption if the person selling the meat knew or should have known that the person receiving the meat intended to sell it for human consumption in the United States.

The owner of a livestock market would have to post prominently a sign giving notice that a horse sold at the market could be bought for slaughter.

CSHB 1324 would repeal Agriculture Code, sec. 149.004, which sets forth prima facie evidence of an offense.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 1324 would make it illegal to sell or possess horsemeat intended for human consumption anywhere in the United States, while protecting the rights of slaughter plants to continue operating in Texas. The bill would not address horse slaughter. Provisions in current state law for regulating horse slaughter indicate a clear legislative intent to permit this practice in Texas.

Horse slaughter plants in Texas are legal, humane, and well regulated. Horses are slaughtered in virtually the same manner as cattle, in a humane method that is regulated by the USDA and sanctioned by the American Veterinary Medical Association. Horses are rendered instantaneously brain-dead before slaughter, so they feel no pain or anxiety. This method of euthanasia is recommended as humane and effective by veterinarians. In addition to compassionate reasons for humane euthanasia, the plants have an economic incentive to keep animals as calm as possible. If an animal is frightened when it is slaughtered, it releases a chemical that taints the meat. Further, plants are prohibited from slaughtering unless a USDA inspector is present.

CSHB 1324 would allow existing slaughter plants to continue producing valuable products that are practical for veterinary training and essential for human medical research. A horse's heart sac can be used in human heart and chest surgery as a pericardial "patch" when the human heart sac is opened, traumatized, or damaged. Veterinary schools often use horse reproductive tracts in teaching anatomy and reproductive processes. Farrier schools use horse feet from the plants to teach their students hoof anatomy and proper shoeing techniques. Horsemeat also is used in pet foods and is sold to zoos to feed carnivorous animals such as lions and tigers.

The sale of horsemeat to overseas markets is an international trade issue, so the state has no jurisdiction to shut down the plants. A Mexican company has joined the civil lawsuit pending in a federal court, asserting that the district attorneys of Kaufman and Tarrant counties are violating international trade agreements by forbidding Texas plants to slaughter Mexican horses for sale overseas. The slaughter plants claim that the state could be blocking the free flow of commerce under other international agreements as well, including the North American Free Trade Agreement, the General Agreement on Tariffs and Trade, and European Union trade initiatives.

CSHB 1324 would protect a thriving industry that provides economic benefits for many Texas families. The plants are good local partners, employing 150 workers and paying several million dollars annually in motor fuel and property taxes, unemployment benefits, and other state and federal taxes. Texas and the affected counties benefit from the presence of these businesses, and closing the plants would impose an economic burden on the workers and their communities.

The bill would protect horses and their sellers by requiring livestock auctions to post signs at sales disclosing that horses could be bought for slaughter. With full knowledge that their horses could be bought for slaughter, sellers could ask questions of buyers and could make informed choices as to whether they wanted to sell.

CSHB 1324 would protect horses from being taken to unregulated Mexican slaughterhouses, thereby suppressing horse theft. Before a horse can be slaughtered at a Texas plant, its brand must be inspected by the Texas Southwestern Cattle Raisers Association, which then can intervene if a horse has been brought to a slaughter plant illegally. The Texas Sheriff's Association also provides protection against horse theft and aids in the prosecution of anyone found guilty of horse theft. Both of these organizations support enactment of CSHB 1324 to keep horse-theft rates down and to keep horse slaughter safe and legal in Texas.

Horse plants provide a needed service and a welcome alternative to many other inhumane endings for unwanted horses. Euthanizing and disposing of a horse can be expensive and difficult. The cost can run into hundreds of dollars, not counting the price of hiring a backhoe to dig a suitable hole for burying. Some horse owners face economic difficulties, others are not well informed, and still others simply neglect their animals. For whatever reason a horse is not wanted, it is more humane to euthanize an unwanted horse than to "put it out to pasture," often a euphemism for letting an animal die a slow, painful death. Horse plants are not the only solution for the unwanted horse population, but they should remain open as a viable alternative.

If horse slaughter plants are not available, unwanted horses may come to other bad ends. Rendering plants no longer are an option in Texas, because the only operational rendering plant, in San Angelo, will pick up horses only within a 20-mile radius of the plant. Many horse rescue operations are overwhelmed with animals they cannot afford to care for, and unwanted horses can wind up abused or neglected or can be shipped to unregulated slaughter plants in Mexico or Canada. Since the closing of other slaughterhouses around the country, many other states now ship their horses to Texas for slaughter. This safe and humane option should be preserved for Texas horses and for horses from other states.

Processing plants typically do not buy young, healthy horses. A research team from Colorado State University observed more than 1,000 horses coming to the Texas plants and found that the average age of the horses sent to slaughter was 11 years. According to their research, only about 8 percent of the horses were two years old or younger. Most of the horses were between five and 20 years old, and about 10 percent were more than 20 years old.

A long list of horse and livestock associations have come forward to support the bill, including the Texas Thoroughbred Association. The operation of the slaughter plants is no big secret in Texas, and the Breeder's Cup selected Texas as the site for its 2004 world championships before this legislation was filed. It is unlikely that the continued operation of two horse slaughter plants in Texas would have far-reaching negative effects on a multi-million dollar industry like horse racing.

**OPPONENTS
SAY:**

CSHB 1324 would legalize the sale of horsemeat for human consumption. Whether the meat is sold for consumption in the United States or overseas, there is no legitimate justification for this practice. The number of slaughter plants in the United States has declined steadily in recent years, from 35 to the two foreign-owned plants in Texas. The state attorney general has issued an opinion that these plants are engaging in illegal activity. They should be ordered to close, rather than having their illegal operations legitimized by the Legislature.

Many viable alternatives to horse slaughter exist, especially for the many young horses or pregnant mares that are being sold to "killer buyers" at auction barns. Unwanted horses may be sold or donated to therapeutic riding camps, to mounted police, to hack stables, or to 4-H clubs. They can be used as show horses, Olympic horses, or riding lesson horses. They can be used for animal therapy at prisons or in other therapeutic environments. Many horse rescue organizations exist to rehabilitate unwanted or sick horses and to find loving homes to adopt them. No evidence exists of a great increase in abuse or cruelty to horses after the closing down of other slaughter plants. Finally, more than 285 rendering plants in the United States make euthanasia and disposition an inexpensive and convenient alternative.

Closing horse slaughter plants would reduce horse-theft rates in Texas, not increase them. According to the California Livestock Identification Bureau,

horse theft has decreased significantly since approval in 1998 of Proposition 6, a California voter initiative to ban the sale of horses for human consumption and to prohibit the sale of horsemeat. Between 1995 and 1998, as many as 71 horses per year were stolen in the state. Since 1998, the greatest number of horses stolen in one year has been 39, a decrease of about 45 percent.

Closing horse slaughter plants would not result in increasing exports of live horses to Mexico or Canada for slaughter. According to data from the U.S. International Trade Commission and the United Nations Food and Agriculture Organization, the export of live horses to Canada and Mexico has remained steady over the past decade, during which the number of horses slaughtered in the United States has dropped from 350,000 to 42,000 per year.

Beltex is a French-owned company, and Dallas Crown is Belgian-owned. In 2002, these plants slaughtered 42,000 horses and shipped the horsemeat and \$40 million in annual gross sales overseas. At a time when certain European countries vigorously are opposing U.S. policies, these plants should not be shipping meat and money overseas.

Rather than being an economic boon to their communities, the horse slaughter plants are profiting from the labor of 150 minimum-wage, mostly migrant workers. These low-paying, undesirable jobs are subject to high turnover and would not be missed by their local communities.

Because 90 percent of the horses slaughtered in Texas are trucked in from out of state, profits from the sale of those horses at auction never make it back to Texas. Professional “killer buyers” frequent auctions and livestock markets across the country shopping for horses for slaughter. At no point in the distribution chain of the horse slaughter industry does Texas derive an economic gain.

A live horse is worth more than a dead horse to the Texas economy. The direct cost of maintaining a live horse averages about \$4,200 per horse per year, including horse food, veterinary care, medications, transportation, shoeing, and other costs. This does not include indirect costs of tack, gasoline, uniforms, entry or breeding fees, nor the capital costs of land, barns, fences, and equipment.

Horses are a cultural icon in America and have contributed to the enjoyment of generations of recreation enthusiasts. They are not raised for food or fiber, and they often are kept as pets. They should be protected from those who wish to slaughter them for profit. California voters approved Proposition 6 in 1998 by a 60 percent majority. If polled, most Texans would not support horse slaughter for human consumption either.

The slaughter method used in Texas plants is inhumane. The American Veterinary Medical Association's Panel on Euthanasia reports that "adequate restraint is important to ensure proper placement of the penetrating captive bolt." This euthanizing method is more effective for cattle, which are more docile than horses and have shorter necks. Unlike cattle, horses are not accustomed to being handled in herds or in crowded conditions, and they become anxious after being cooped up. Also, the arc of their necks makes stable positioning more difficult. Slaughter plants kill 160 fractious, frightened horses a day, making it impossible to maintain adequate restraint. As a result, the horses must endure repeated stuns or blows, after which some remain conscious during their own slaughter.

Continuing the practice of horse slaughter for food in Texas would reflect negatively on the thoroughbred industry. Texas is slated to host the Breeders' Cup World Thoroughbred Championships in 2004, which is expected to attract top owners, breeders, trainers, jockeys and thoroughbreds from around the world. Enactment of CSHB 1324 not only would conflict with efforts to save thoroughbreds but also could cast a negative light on the state and the industry during this worldwide championship event.

Since Texas legalized parimutuel betting, the state has become a major player in the thoroughbred industry. Slaughtering horses for food is a lingering blight on an industry that has worked hard to improve its image among racing fans and the general public. Legalizing horse slaughter for food would result in lower spectator attendance, less simulcast wagering, lower television ratings, and lower participation by owners and breeders, adding up to a huge loss in revenue for the thoroughbred industry.

NOTES: HB 1324 as filed would have required the owner of a livestock market to ensure that all sellers at an auction signed acknowledgment forms stating that

they were aware that their horses could be bought for slaughter. It would have made the owner of the livestock market subject to a Class C misdemeanor (punishable by a maximum fine of \$500) for failing to obtain signed acknowledgment forms.

A similar bill during the 77th Legislature, HB 1391 by J. Keffer, would have required that acknowledgment forms be signed at public auctions and that signs be posted prominently at auctions warning horse sellers that their animals could be bought for slaughter. The bill was left pending in the House Agriculture and Livestock Committee.