



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3643

Introduced 2/24/2009, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

New Act

510 ILCS 70/2.01

from Ch. 8, par. 702.01

510 ILCS 70/5 rep.

510 ILCS 70/5.01 rep.

Creates the Equine Welfare Act, which is the same as applicable provisions of the Humane Care for Animals Act. Amends the Humane Care for Animals Act to exempt from that Act those equidae covered by the Equine Welfare Act.

LRB096 09611 JDS 19772 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning equidae.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Equine
5 Welfare Act.

6 Section 5. Definitions. As used in this Act, unless the
7 context otherwise requires, terms have the following meanings:

8 "Exigent circumstances" means a licensed veterinarian
9 cannot be secured without undue delay and, in the opinion of
10 the animal control warden, animal control administrator,
11 Department of Agriculture investigator, approved humane
12 investigator, or animal shelter employee, the equidae is so
13 severely injured, diseased, or suffering that it is unfit for
14 any useful purpose and to delay humane euthanasia would
15 continue to cause the equidae extreme suffering.

16 "Animal control administrator" means a veterinarian
17 licensed by the State of Illinois and appointed pursuant to the
18 Animal Control Act, or his or her duly authorized
19 representative.

20 "Department" means the Department of Agriculture.

21 "Department investigator" or "approved humane
22 investigator" means a person employed by or approved by the
23 Department to determine whether there has been a violation of

1 this Act or an animal control warden or animal control
2 administrator appointed under the Animal Control Act.

3 "Director" means the Director of Agriculture, or his or her
4 duly appointed representative.

5 "Livestock management facility" means any on-farm animal
6 feeding operation, on-farm livestock shelter, or on-farm
7 milking and accompanying milk handling area.

8 "Owner" means any person who (i) has a right of property in
9 an equid, (ii) keeps or harbors an equid, (iii) has an equid in
10 his or her care, or (iv) acts as custodian of an equid.

11 "Person" means any individual, minor, firm, corporation,
12 partnership, other business unit, society, association, or
13 other legal entity, any public or private institution, the
14 State of Illinois, or any municipal corporation or political
15 subdivision of the State.

16 "Police equidae" means any equidae owned or used by a law
17 enforcement department or agency in the course of the
18 department or agency's work.

19 "Humanely euthanized" means the painless administration of
20 a lethal dose of an agent or method of euthanasia as prescribed
21 in the Report of the American Veterinary Medical Association
22 Panel on Euthanasia published in the Journal of the American
23 Veterinary Medical Association, March 1, 2001 (or any successor
24 version of that Report), that causes the painless death of an
25 equid. Equidae must be handled prior to administration of the
26 agent or method of euthanasia in a manner to avoid undue

1 apprehension by the equid.

2 Section 10. Owner's duties. Each owner shall provide for
3 each of his or her equidae:

4 (a) sufficient quantity of good quality, wholesome
5 food and water;

6 (b) adequate shelter and protection from the weather;

7 (c) veterinary care when needed to prevent suffering;
8 and

9 (d) humane care and treatment.

10 A person convicted of violating this Section is guilty of a
11 Class B misdemeanor. A second or subsequent violation is a
12 Class 4 felony with every day that a violation continues
13 constituting a separate offense. In addition to any other
14 penalty provided by law, upon conviction for violating this
15 Section, the court may order the convicted person to undergo a
16 psychological or psychiatric evaluation and to undergo any
17 treatment at the convicted person's expense that the court
18 determines to be appropriate after due consideration of the
19 evaluation. If the convicted person is a juvenile, the court
20 must order the convicted person to undergo a psychological or
21 psychiatric evaluation and to undergo treatment that the court
22 determines to be appropriate after due consideration of the
23 evaluation.

24 Section 15. Cruel treatment. No person or owner may beat,

1 cruelly treat, torment, starve, overwork or otherwise abuse any
2 equidae.

3 No owner may abandon any equid where it may become a public
4 charge or may suffer injury, hunger, or exposure.

5 A person convicted of violating this Section is guilty of a
6 Class A misdemeanor. A second or subsequent conviction for a
7 violation of this Section is a Class 4 felony. In addition to
8 any other penalty provided by law, upon conviction for
9 violating this Section, the court may order the convicted
10 person to undergo a psychological or psychiatric evaluation and
11 to undergo any treatment at the convicted person's expense that
12 the court determines to be appropriate after due consideration
13 of the evidence. If the convicted person is a juvenile, the
14 court must order the convicted person to undergo a
15 psychological or psychiatric evaluation and to undergo
16 treatment that the court determines to be appropriate after due
17 consideration of the evaluation.

18 Section 20. Equid torture.

19 (a) A person commits animal torture when that person
20 without legal justification knowingly or intentionally
21 tortures an equid. For purposes of this Section, and subject to
22 subsection (b), "torture" means infliction of or subjection to
23 extreme physical pain, motivated by an intent to increase or
24 prolong the pain, suffering, or agony of the equid.

25 (b) For the purposes of this Section, "equid torture" does

1 not include any death, harm, or injury caused to any equid by
2 any of the following activities:

3 (1) any hunting, fishing, trapping, or other activity
4 allowed under the Wildlife Code, the Wildlife Habitat
5 Management Areas Act, or the Fish and Aquatic Life Code;

6 (2) any alteration or destruction of any equidae done
7 by any person or unit of government pursuant to statute,
8 ordinance, court order, or the direction of a licensed
9 veterinarian;

10 (3) any alteration or destruction of any equid by any
11 person for any legitimate purpose, including, but not
12 limited to: castration, culling, ear cropping, euthanasia,
13 gelding, grooming, neutering, polling, shearing, shoeing,
14 slaughtering, spaying, tail docking, and vivisection; and

15 (4) any other activity that may be lawfully done to an
16 equid.

17 (c) A person convicted of violating this Section is guilty
18 of a Class 3 felony. As a condition of the sentence imposed
19 under this Section, the court shall order the offender to
20 undergo a psychological or psychiatric evaluation and to
21 undergo treatment that the court determines to be appropriate
22 after due consideration of the evaluation.

23 Section 25. Depiction of equine cruelty.

24 (a) "Depiction of equine cruelty" means any visual or
25 auditory depiction, including any photograph, motion-picture

1 film, video recording, electronic image, or sound recording,
2 that would constitute a violation of this Act.

3 (b) No person may knowingly create, sell, market, offer to
4 market or sell, or possess a depiction of equine cruelty. No
5 person may place that depiction in commerce for commercial gain
6 or entertainment. This Section does not apply when the
7 depiction has religious, political, scientific, educational,
8 law enforcement or humane investigator training, journalistic,
9 artistic, or historical value; or involves rodeos, sanctioned
10 livestock events, or normal husbandry practices.

11 The creation, sale, marketing, offering to sell or market,
12 or possession of the depiction of equine cruelty is illegal
13 regardless of whether the maiming, mutilation, torture,
14 wounding, abuse, killing, or any other conduct took place in
15 this State.

16 (c) Any person convicted of violating this Section is
17 guilty of a Class A misdemeanor. A second or subsequent
18 violation is a Class 4 felony. In addition to any other penalty
19 provided by law, upon conviction for violating this Section,
20 the court may order the convicted person to undergo a
21 psychological or psychiatric evaluation and to undergo any
22 treatment at the convicted person's expense that the court
23 determines to be appropriate after due consideration of the
24 evaluation. If the convicted person is a juvenile, the court
25 shall order the convicted person to undergo a psychological or
26 psychiatric evaluation and to undergo treatment that the court

1 determines to be appropriate after due consideration of the
2 evaluation.

3 Section 30. Equidae in entertainment.

4 (a) No person may own, capture, breed, train, or lease any
5 equid that he or she knows or should know is intended for use
6 in any show, exhibition, program, or other activity featuring
7 or otherwise involving a fight between such equidae and any
8 other animal or human, or the intentional killing of any equid
9 for the purpose of sport, wagering, or entertainment.

10 (b) No person shall promote, conduct, carry on, advertise,
11 collect money for or in any other manner assist or aid in the
12 presentation for purposes of sport, wagering, or
13 entertainment, any show, exhibition, program, or other
14 activity involving a fight between 2 or more equidae or any
15 animal and human, or the intentional killing of any equid.

16 (c) No person shall sell or offer for sale, ship,
17 transport, or otherwise move, or deliver or receive any equidae
18 that he or she knows or should know has been captured, bred, or
19 trained, or will be used, to fight another animal or human or
20 be intentionally killed, for the purpose of sport, wagering, or
21 entertainment.

22 (d) No person shall manufacture for sale, shipment,
23 transportation or delivery any device or equipment which that
24 person knows or should know is intended for use in any show,
25 exhibition, program, or other activity featuring or otherwise

1 involving a fight between 2 or more equidae, or any human and
2 equidae, or the intentional killing of any equid for purposes
3 of sport, wagering, or entertainment.

4 (e) No person shall own, possess, sell or offer for sale,
5 ship, transport, or otherwise move any equipment or device
6 which such person knows or should know is intended for use in
7 connection with any show, exhibition, program, or activity
8 featuring or otherwise involving a fight between 2 or more
9 equidae, or any equid and human, or the intentional killing of
10 any equid for purposes of sport, wagering, or entertainment.

11 (f) No person shall make available any site, structure, or
12 facility, whether enclosed or not, which he or she knows or
13 should know is intended to be used for the purpose of
14 conducting any show, exhibition, program, or other activity
15 involving a fight between 2 or more equidae, or any equid and
16 human, or the intentional killing of any equid.

17 (g) No person shall attend or otherwise patronize any show,
18 exhibition, program, or other activity featuring or otherwise
19 involving a fight between 2 or more equidae, or any equidae and
20 human, or the intentional killing of any equidae for the
21 purposes of sport, wagering, or entertainment.

22 (h) Any equidae or equipment involved in a violation of
23 this Section shall be immediately seized and impounded by the
24 Department when located at any show, exhibition, program, or
25 other activity featuring or otherwise involving an equidae
26 fight for the purposes of sport, wagering, or entertainment.

1 (i) Any vehicle or conveyance other than a common carrier
2 that is used in violation of this Section shall be seized,
3 held, and offered for sale at public auction by the sheriff's
4 department of the proper jurisdiction, and the proceeds from
5 the sale shall be remitted to the general fund of the county
6 where the violation took place.

7 (j) Any veterinarian in this State who is presented with an
8 equidae for treatment of injuries or wounds resulting from
9 fighting where there is a reasonable possibility that the
10 equidae was engaged in or used for a fighting event for the
11 purposes of sport, wagering, or entertainment shall file a
12 report with the Department and cooperate by furnishing the
13 owners' names, dates, and descriptions of the equidae involved.
14 Any veterinarian who in good faith complies with the
15 requirements of this subsection has immunity from any
16 liability, civil, criminal, or otherwise, that may result from
17 his or her actions. For the purposes of any proceedings, civil
18 or criminal, the good faith of the veterinarian shall be
19 rebuttably presumed.

20 (k) No person shall solicit a minor to violate this
21 Section.

22 (l) The penalties for violations of this Section shall be
23 as follows:

24 (1) A person convicted of violating subsection (a),
25 (b), or (c) of this Section or any rule, regulation, or
26 order of the Department pursuant thereto is guilty of a

1 Class 4 felony for the first offense. A second or
2 subsequent offense involving the violation of subsection
3 (a), (b), or (c) of this Section or any rule, regulation,
4 or order of the Department pursuant thereto is a Class 3
5 felony.

6 (2) A person convicted of violating subsection (d),
7 (e), or (f) of this Section or any rule, regulation, or
8 order of the Department pursuant thereto is guilty of a
9 Class A misdemeanor for the first offense. A second or
10 subsequent violation is a Class 4 felony.

11 (3) A person convicted of violating subsection (g) of
12 this Section or any rule, regulation, or order of the
13 Department pursuant thereto is guilty of a Class C
14 misdemeanor.

15 (4) A person convicted of violating subsection (l) of
16 this Section is guilty of a Class A misdemeanor.

17 Section 35. Arrests; reports.

18 (a) Any law enforcement officer making an arrest for an
19 offense involving one or more animals under Section 30 of this
20 Act shall lawfully take possession of all equidae and all
21 paraphernalia, implements, or other property or things used or
22 employed, or about to be employed, in the violation of any of
23 the provisions of Section 30 of this Act. When a law
24 enforcement officer has taken possession of such equidae,
25 paraphernalia, implements, or other property or things, he or

1 she shall file with the court before whom the complaint is made
2 against any person so arrested an affidavit stating therein the
3 name of the person charged in the complaint, a description of
4 the property so taken and the time and place of the taking
5 thereof together with the name of the person from whom the same
6 was taken and name of the person who claims to own such
7 property, if different from the person from whom the equidae
8 were seized and if known, and that the affiant has reason to
9 believe and does believe, stating the ground of the belief,
10 that the equidae and property so taken were used or employed,
11 or were about to be used or employed, in a violation of Section
12 30 of this Act. He or she shall thereupon deliver an inventory
13 of the property so taken to the court of competent
14 jurisdiction. A law enforcement officer may humanely euthanize
15 equidae that are severely injured.

16 An owner whose equidae are removed for a violation of
17 Section 30 of this Act must be given written notice of the
18 circumstances of the removal and of any legal remedies
19 available to him or her. The notice must be posted at the place
20 of seizure or delivered to a person residing at the place of
21 seizure or, if the address of the owner is different from the
22 address of the person from whom the equidae were seized,
23 delivered by registered mail to his or her last known address.

24 Upon the conviction of the person so charged, all equidae
25 shall be adopted or humanely euthanized and property so seized
26 shall be adjudged by the court to be forfeited. Any outstanding

1 costs incurred by the impounding facility in boarding and
2 treating the equidae pending the disposition of the case and
3 disposing of the equidae upon a conviction must be borne by the
4 person convicted. In no event may the equidae be adopted by the
5 defendant or anyone residing in his or her household. If the
6 court finds that the State either failed to prove the criminal
7 allegations or failed to prove that the equidae were used in
8 fighting, the court must direct the delivery of the equidae and
9 the other property not previously forfeited to the owner of the
10 equidae and property.

11 Any person authorized by this Section to care for an
12 equidae, to treat an equidae, or to attempt to restore an
13 equidae to good health and who is acting in good faith is
14 immune from any civil or criminal liability that may result
15 from his or her actions.

16 An animal control warden, animal control administrator,
17 animal shelter employee, or approved humane investigator may
18 humanely euthanize severely injured, diseased, or suffering
19 equidae in exigent circumstances.

20 (b) Any veterinarian in this State who is presented with an
21 equid for treatment of injuries or wounds resulting from
22 fighting where there is a reasonable possibility that the equid
23 was engaged in or used for a fighting event shall file a report
24 with the Department and cooperate by furnishing the owners'
25 names, date of receipt of the equid and treatment administered,
26 and descriptions of the equid involved. Any veterinarian who in

1 good faith makes a report, as required by this subsection (b),
2 is immune from any liability, civil, criminal, or otherwise,
3 resulting from his or her actions. For the purposes of any
4 proceedings, civil or criminal, the good faith of any such
5 veterinarian shall be presumed.

6 Section 40. Teasing, striking, or tampering with police
7 equidae. It shall be unlawful for any person to willfully and
8 maliciously taunt, torment, tease, beat, strike, or administer
9 or subject any desensitizing drugs, chemicals or substance to
10 any equid used by a law enforcement officer in the performance
11 of his or her functions or duties, or when placed in
12 confinement off duty or any police equid in training. It is
13 unlawful for any person to interfere or meddle with any equidae
14 used by a law enforcement department or agency or any handler
15 thereof in the performance of the functions or duties of the
16 department or agency or any law enforcement equidae in
17 training.

18 Any person convicted of violating this Section is guilty of
19 a Class A misdemeanor. A second or subsequent violation is a
20 Class 4 felony.

21 Section 45. Injuring or killing police equidae. It shall
22 be unlawful for any person to willfully or maliciously torture,
23 mutilate, injure, disable, poison, or kill any equid used by a
24 law enforcement department or agency in the performance of the

1 functions or duties of the department or agency or when placed
2 in confinement off duty or any law enforcement equidae in
3 training. However, a police officer or veterinarian may perform
4 euthanasia in emergency situations when delay would cause the
5 equid undue suffering and pain.

6 A person convicted of violating this Section is guilty of a
7 Class 4 felony if the equid is not killed or totally disabled;
8 if the equid is killed or totally disabled, the person is
9 guilty of a Class 3 felony.

10 Section 50. Lame or disabled equidae. No person shall sell,
11 offer to sell, lead, ride, transport, or drive on any public
12 way any equidae which, because of debility, disease, lameness
13 or any other cause, could not be worked in this State without
14 violating this Act. Such equidae may be conveyed to a proper
15 place for medical or surgical treatment or for humane keeping
16 or euthanasia.

17 A person convicted of violating this Section or any rule,
18 regulation, or order of the Department pursuant thereto is
19 guilty of a Class A misdemeanor. A second or subsequent
20 violation is a Class 4 felony.

21 Section 55. Equidae poling or tripping.

22 (a) As used in this Section:

23 "Pole" means to use a method of training an equidae that
24 consists of (i) forcing, persuading, or enticing an equid to

1 jump so that one or more of its legs contacts an obstruction
2 consisting of any kind of wire, or a pole, stick, rope, or
3 other object in which is embedded brads, nails, tacks, or other
4 sharp points or (ii) raising, throwing, or moving a pole,
5 stick, wire, rope, or other object against one or more legs of
6 an equid while it is jumping an obstruction so that the
7 equidae, in either case, is induced to raise its leg or legs
8 higher in order to clear the obstruction.

9 "Trip" means to use a wire, rope, pole, stick, or other
10 object or apparatus to cause an equid to fall or lose its
11 balance.

12 (b) No person may knowingly pole or trip an equid by any
13 means for entertainment or sport purposes.

14 (c) This Section does not prohibit the lawful laying down
15 of an equid for medical or identification purposes.

16 (d) A person convicted of violating this Section is guilty
17 of a Class A misdemeanor. A second or subsequent violation of
18 this Section is a Class 4 felony.

19 Section 60. Poisoning prohibited. No person may knowingly
20 poison or cause to be poisoned any equid. The only exception
21 will be by written permit from the Department for the purpose
22 of controlling diseases transmissible to humans or other
23 animals and only when all other methods and means have been
24 exhausted. Such a written permit shall name the person or
25 persons conducting the poisoning, specify the products to be

1 used, give the boundaries of the area involved, and specify the
2 precautionary measures to be employed to insure the safety of
3 humans and other animals.

4 This Section does not prohibit the use of a euthanasia drug
5 by a euthanasia agency for the purpose of animal euthanasia,
6 provided that the euthanasia drug is used by or under the
7 direction of a licensed veterinarian or certified euthanasia
8 technician, all as defined in and subject to the Humane
9 Euthanasia in Animal Shelters Act.

10 A person convicted of violating this Section or any rule,
11 regulation, or order of the Department pursuant thereto is
12 guilty of a Class A misdemeanor. A second or subsequent
13 violation is a Class 4 felony.

14 Section 65. Confinement or detention during
15 transportation. No owner, railroad or other common carrier
16 may, when transporting any equid, allow that equid to be
17 confined in any type of conveyance more than 28 consecutive
18 hours without being exercised as necessary for that equid and
19 without being properly rested, fed, and watered; except that a
20 reasonable extension of this time limit shall be granted when a
21 storm or accident causes a delay. In the case of default of the
22 owner or consignee, the company transporting the equid shall
23 exercise the equid, when necessary for the equid and for the
24 proper resting, feeding, watering, and sheltering of such
25 equid, and shall have a lien upon the equid until all expenses

1 resulting therefrom have been paid.

2 Any person who intentionally or negligently without
3 jurisdiction of law detains a shipment of equidae long enough
4 to endanger the health or safety of the equidae is liable to
5 the owner for any diminution in the value or death of the
6 equidae.

7 Authorities detaining an equidae shipment shall give
8 priority to the health and safety of the equidae and shall
9 expeditiously handle any legal violation so that the intact
10 shipment may safely reach its designated destination.

11 A person convicted of violating this Section or any rule,
12 regulation, or order of the Department pursuant thereto, is
13 guilty of a Class B misdemeanor. A second or subsequent
14 violation is a Class 4 felony, with every day that a violation
15 continues constituting a separate offense.

16 Section 70. Confinement in motor vehicle. No owner or
17 person shall confine any equid in a motor vehicle in such a
18 manner that places it in a life or health threatening situation
19 by exposure to a prolonged period of extreme heat or cold,
20 without proper ventilation or other protection from such heat
21 or cold. In order to protect the health and safety of an equid,
22 an animal control officer, law enforcement officer, or
23 Department investigator who has probable cause to believe that
24 this Section is being violated shall have authority to enter
25 such motor vehicle by any reasonable means under the

1 circumstances after making a reasonable effort to locate the
2 owner or other person responsible.

3 A person convicted of violating this Section is guilty of a
4 Class C misdemeanor. A second or subsequent violation is a
5 Class B misdemeanor.

6 Section 75. Downed equidae.

7 (a) For the purpose of this Section a downed equid is one
8 incapable of walking without assistance.

9 (b) No downed equid shall be sent to a stockyard, auction,
10 or other facility where its impaired mobility may result in
11 suffering.

12 (c) A downed equid sent to a stockyard, auction, or other
13 facility in violation of this Section shall be humanely
14 euthanized, the disposition of such equid shall be the
15 responsibility of the owner, and the owner shall be liable for
16 any expense incurred.

17 If an equid becomes downed in transit it shall be the
18 responsibility of the carrier.

19 (d) A downed equid shall not be transported unless
20 individually segregated.

21 (e) A person convicted of violating this Section or any
22 rule, regulation, or order of the Department pursuant thereto
23 is guilty of a Class B misdemeanor. A second or subsequent
24 violation is a Class 4 felony, with every day that a violation
25 continues constituting a separate offense.

1 Section 80. Administration of Act. The Department shall
2 administer this Act and shall promulgate such rules and
3 regulations as are necessary to effectuate the purposes of this
4 Act.

5 The Director may, in formulating rules and regulations
6 pursuant to this Act, seek the advice and recommendations of
7 equine societies in this State.

8 Section 85. Humane investigators; qualifications. The
9 Department shall, by rule or regulation, establish reasonable
10 qualifications for approved humane investigators and shall
11 maintain a current listing of all approved humane investigators
12 which shall be available for public inspection. These
13 qualifications shall include, but need not be limited to, a
14 knowledge of the provisions of this Act and its rules and
15 regulations and expertise in the investigation of complaints
16 relating to the care and treatment of equidae. Persons
17 designated as humane investigators shall cooperate, when
18 requested, in completing routine investigations and filing
19 reports of violations of this Act received by the Department.

20 Employees of the Department may be assigned as Department
21 investigators.

22 Section 90. Investigation of complaints.

23 (a) Upon receiving a complaint of a suspected violation of

1 this Act, a Department investigator, any law enforcement
2 official, or an approved humane investigator may, for the
3 purpose of investigating the allegations of the complaint,
4 enter during normal business hours upon any premises where the
5 equidae described in the complaint are housed or kept, provided
6 such entry shall not be made into any building which is a
7 person's residence, except by search warrant or court order.
8 Institutions operating under federal license to conduct
9 laboratory experimentation using equidae for research or
10 medical purposes are, however, exempt from the provisions of
11 this Section. State's Attorneys and law enforcement officials
12 shall provide such assistance as may be required in the conduct
13 of such investigations. Any such investigation requiring legal
14 procedures shall be immediately reported to the Department. No
15 employee or representative of the Department shall enter a
16 livestock management facility unless sanitized footwear is
17 used, or unless the owner or operator of the facility waives
18 this requirement. The employee or representative must also use
19 any other reasonable disease prevention procedures or
20 equipment provided by the owner or operator of the facility.

21 (b) Any veterinarian acting in good faith is immune from
22 any civil or criminal liability resulting from his or her
23 actions under this Section. The good faith on the part of the
24 veterinarian is presumed.

25 Section 95. Notice of violation.

1 (a) If an investigation discloses that a violation of this
2 Act has been committed, the approved humane investigator shall
3 furnish the violator, if known, with a notice of violation, and
4 state what action is necessary to come into compliance with
5 this Act and that a maximum of 48 hours may be granted in which
6 to take corrective action.

7 (b) If the violator fails or refuses to take corrective
8 action necessary for compliance or if the violator is still
9 unknown after an attempt to identify ownership, the humane
10 investigator shall contact the Department and request
11 authorization to impound the equidae. The Department will
12 authorize impoundment if a review of facts gathered by the
13 humane investigator indicates a violation of Section 10 of this
14 Act has occurred and the violator, if known, has failed or
15 refused to take corrective action necessary for compliance.

16 Section 100. Impounding equidae.

17 (a) When an approved humane investigator, a Department
18 investigator or a veterinarian finds that a violation of this
19 Act has rendered an equid in such a condition that no remedy or
20 corrective action by the owner is possible, the Department must
21 impound or order the impoundment of the equid. If the violator
22 fails or refuses to take corrective action necessary for
23 compliance with this Act, the Department may impound the equid.
24 If the equid is ordered impounded, it shall be impounded in a
25 facility or at another location where the elements of good care

1 can be provided, and where such equid shall be examined and
2 treated by a licensed veterinarian or, if the equid is severely
3 injured, diseased, or suffering, humanely euthanized. Any
4 expense incurred in the impoundment shall become a lien on the
5 equid.

6 (b) Emergency impoundment may be exercised in a
7 life-threatening situation and the subject equid shall be
8 conveyed directly to a licensed veterinarian for medical
9 services necessary to sustain life or to be humanely euthanized
10 as determined by the veterinarian. If such emergency procedure
11 is taken by an animal control officer, the Department shall be
12 notified.

13 (c) A notice of impoundment shall be given by the
14 investigator to the violator, if known, in person or sent by
15 certified or registered mail. If the investigator is not able
16 to serve the violator in person or by registered or certified
17 mail, the notice may be given by publication in a newspaper of
18 general circulation in the county in which the violator's last
19 known address is located. A copy of the notice shall be
20 retained by the investigator and a copy forwarded immediately
21 to the Department. The notice of impoundment shall include the
22 following:

23 (1) A number assigned by the Department which will also
24 be given to the impounding facility accepting the
25 responsibility of the equidae.

26 (2) Listing of deficiencies noted.

1 (3) An accurate description of the equidae involved.

2 (4) Date on which the equidae were impounded.

3 (5) Signature of the investigator.

4 (6) A statement that: "The violator may request a
5 hearing to appeal the impoundment. A person desiring a
6 hearing shall contact the Department of Agriculture within
7 7 days from the date of impoundment" and the Department
8 must hold an administrative hearing within 7 business days
9 after receiving a request to appeal the impoundment. If the
10 hearing cannot be held prior to the expiration of the 7-day
11 impoundment period, the Department shall notify the
12 impounding facility that it cannot sell, offer for
13 adoption, or dispose of the equidae until a final decision
14 is rendered and all of the appeal processes have expired.

15 If a hearing is requested by any owner of impounded
16 equidae, the Hearing Officer shall, after hearing the testimony
17 of all interested parties, render a decision within 5 business
18 days regarding the disposition of the impounded equidae. This
19 decision by the Hearing Officer shall have no effect on the
20 criminal charges that may be filed with the appropriate
21 authorities.

22 If an owner of an animal used for fighting purposes
23 requests a hearing, the animal control having control of the
24 equid may file a petition with the court in the county where
25 the impoundment took place requesting that the person from whom
26 the equidae were seized or the owner of the equidae be ordered

1 to post security pursuant to this Act.

2 If the court orders the posting of security, the security
3 must be posted with the clerk of the court within 5 business
4 days after the hearing. If the person ordered to post security
5 does not do so, the court must order the Department of
6 Agriculture to hold a hearing on the impoundment within 5
7 business days. If, upon final administrative or judicial
8 determination, it is found that it is not in the best interest
9 of the equidae to be returned to the person from whom they were
10 seized, the equidae are forfeited to the animal control or
11 having control of the equidae. If no petition for the posting
12 of security is filed or a petition was filed and granted but
13 the person failed to post security, any expense incurred in the
14 impoundment shall remain outstanding until satisfied by the
15 owner or the person from whom the equidae were impounded.

16 When the impoundment is not appealed, the equidae are
17 forfeited and the animal control in charge of the equidae may
18 lawfully and without liability provide for adoption of the
19 equidae by a person other than the person who forfeited the
20 equidae, or any person or persons dwelling in the same
21 household as the person who forfeited the equidae, or it may
22 humanely euthanize the equidae.

23 Section 105. Scope of Act. Nothing in this Act affects
24 normal, good husbandry practices used by any person in the
25 production of food, work animals, or in the extermination of

1 undesirable pests. In case of any alleged conflict between this
2 Act, or regulations adopted hereunder, and the Humane Care for
3 Animals Act, the provisions of this Act shall prevail.

4 Section 110. Judicial review. Any person affected by a
5 final administrative decision of the Department may have such
6 decision reviewed judicially by the circuit court of the county
7 wherein the person resides, or in the case of a corporation,
8 the county where its registered office is located. If the
9 plaintiff in the review proceeding is not a resident of this
10 State, the venue shall be in Sangamon County. The
11 Administrative Review Law, and all amendments and
12 modifications thereof, and the rules adopted pursuant thereto,
13 apply to and govern all proceedings for the judicial review of
14 final administrative decisions of the Department hereunder.
15 The term "administrative decision" is defined in Section 3-101
16 of the Code of Civil Procedure.

17 The Department may not be required to certify the record of
18 the proceeding unless the plaintiff in the review proceedings
19 first pays the sum of 75¢ per page of such record. Exhibits
20 shall be certified without cost.

21 Section 115. Severability. If any provision of this Act is
22 declared unconstitutional, or the applicability thereof to any
23 person or circumstance is held invalid, by a court of competent
24 jurisdiction, the constitutionality of the remainder of this

1 Act and the applicability thereof to other persons and
2 circumstances shall not be affected thereby.

3 Section 120. Defenses. It is not a defense to violations of
4 this Act for the person committing the violation to assert that
5 he or she had rights of ownership in the equidae that was the
6 victim of the violation.

7 Section 125. Corporations. Corporations may be charged
8 with violations of this Act for the acts of their employees or
9 agents who violate this Act in the course of their employment
10 or agency.

11 Section 130. Emergency care to an equid; immunity from
12 civil liability. Any person, including without limitation any
13 person licensed under the Veterinary Medicine and Surgery
14 Practice Act of 2004 or licensed as a veterinarian in any other
15 state or territory of the United States, who in good faith
16 provides emergency care or treatment without fee to an injured
17 equid or an equid separated from its owner due to an emergency
18 or a disaster is not liable for civil damages as a result of
19 his or her acts or omissions in providing or arranging further
20 care or treatment, except for willful or wanton misconduct.

21 Section 135. Penalties.

22 (a) Any person convicted of any act of abuse or neglect or

1 of violating any other provision of this Act, for which a
2 penalty is not otherwise provided, or any rule, regulation, or
3 order of the Department pursuant thereto, is guilty of a Class
4 B misdemeanor. A second or subsequent violation is a Class 4
5 felony with every day that a violation continues constituting a
6 separate offense.

7 (b) The Department may enjoin a person from a continuing
8 violation of this Act.

9 Section 280. The Humane Care for Animals Act is amended by
10 changing Section 2.01 as follows:

11 (510 ILCS 70/2.01) (from Ch. 8, par. 702.01)

12 Sec. 2.01.

13 "Animal" means every living creature, domestic or wild, but
14 does not include man and does not include equidae protected
15 under the Equine Welfare Act.

16 (Source: P.A. 78-905.)

17 (510 ILCS 70/5 rep.)

18 (510 ILCS 70/5.01 rep.)

19 Section 285. The Humane Care for Animals Act is amended by
20 repealing Sections 5 and 5.01.