



# Animal Welfare Institute

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## LEGAL PROTECTIONS FOR FARM ANIMALS AT SLAUGHTER

The meat-packing industry in the United States expanded tremendously during the first half of the 20<sup>th</sup> century. However, as packing houses expanded to take in more and more animals, they retained primitive methods of handling and stunning animals in preparation for slaughter. An editorial entitled “Still the Jungle” in the June 18, 1956 issue of the *New Republic* described the slaughtering procedure:

Cattle, like horses, are slugged on the head with iron mallets. The first blow frequently fails to stun them – as they stumble, electric shocks force them to their knees so that they may be struck again and again. Calves, hogs, and lambs are strung up (conscious) by chains tied to their hind legs. When the chains slip or legs are disjointed and broken, they crash from high conveyor lines to slaughter house floors. The throats of the calves are severed by sawing motions; lambs are knifed behind an ear and slowly bleed to death; hogs with slit throats frequently pass still squealing into scalding vats.

While cruel methods of slaughter were regularly used in meat-packing houses in the U.S., progress was being made with both the passage of humane legislation and the development of humane stunning equipment in other parts of the world.

In 1955, Senator Hubert Humphrey of Minnesota introduced the first humane slaughter bill in the U.S. Congress. The American Meat Institute called it “premature,” although its introduction was 82 years behind Switzerland and at least 20 years behind other countries adopting such legislation.

### History of the Federal Humane Slaughter Law

The specific aim of the first humane slaughter bill was to outlaw the practices of shackling and hoisting conscious animals and the use of manually operated sledgehammers for stunning. Legislation was first introduced in the U.S. Senate on April 11, 1955 by Senator Hubert Humphrey of Minnesota and in the House of Representatives on May 9, 1955 by Representative Martha Griffiths of Michigan. These bills were refused a favorable report by the U.S. Department of Agriculture (USDA), then under the leadership of Ezra Taft Benson, on the grounds that American industry could provide better humane slaughter than legislation could, although American business had had 50 years to do so.

The first bills were tabled without a hearing, but similar legislation was introduced in 1956. Hearings were held on the Senate bill in the subcommittee chaired by Senator Humphrey on May 9 and 10, 1956. The bill was reported favorably to the full Senate committee. In the House, Congressman W. R. Poage of Texas led his subcommittee on an inspection tour of slaughterhouses to study humane and inhumane methods. The sights they witnessed more than confirmed complaints of unnecessary suffering. Pressures were mounting in favor of a compulsory humane slaughter law, inspired both by Congressional verification of inhumane treatment and by public demand.

The bills were introduced again in the 85<sup>th</sup> Congress. Congressman Poage called a hearing on April 2, 1957, at which humane societies from all parts of the country were represented. The Animal Welfare Institute (AWI) exhibited four of the humane stunning instruments then on the market. Among those testifying for the bill were the Amalgamated Meat Cutters and Butcher Workmen of North America, the American Humane Association, AWI, the General Federation of Women's Clubs, The Humane Society of the United States, the National Farmers' Union, the Society for Animal Protective Legislation, and many state and local humane organizations and church groups. Opponents of the bill included the USDA, the American Meat Institute, the Farm Bureau, the National Cattlemen's Association, the National Grange, and the Union of Orthodox Rabbis. The bill was reported favorably by the full House Agriculture Committee on June 29, 1957, and on February 4, 1958, the full House of Representatives overwhelmingly passed the compulsory humane slaughter bill.

In the Senate, at a third set of hearings held from April 28 through May 1, 1958, powerful opposition by meat packers resulted in an amendment of the House humane slaughter bill by the Senate Agriculture Committee on June 18, 1958, deleting all the effective sections and turning the legislation into a mere study bill. A storm of disapproval was evoked by this action. Editorials in leading newspapers throughout the country expressed outrage at the destruction of the bill. Senator Humphrey and 17 co-sponsors offered an amendment on the Senate floor to restore the language of the bill, as passed by the House.

On July 29, 1958 came Senator Humphrey's seven-hour successful fight for defeat of the weak study bill. The first order of business was the vote on the study bill reported to the Senate by its Agriculture Committee. Against the protests of the sponsors of the study bill, Senate Majority Leader Lyndon B. Johnson scheduled the debate. There was scarcely an empty desk on the Senate floor; when the vote came, it was 43 to 40 against the committee bill – an unusual instance of the U.S. Senate reversal of one of its own committees.

Amendment after amendment was put forward in an attempt to weaken the compulsory bill. Senator Humphrey dared not leave the floor for more than a few minutes in his defense of the House-passed bill. Suffering from a bad cold, his lunch, consisting of a bowl of soup, was "poured down him," as an aide put it, so he could rush back to the debate. Only one weakening amendment, the Case-Javits Amendment, was accepted by the Senate. It exempted the pre-slaughter handling of kosher-killed animals from the humane requirements of the bill. The Senate passed the humane slaughter bill, although now weakened by the Case-Javits amendment, by a vote of 72 to 9.

Recognizing that disagreements in conference might result in a loss of the entire humane slaughter bill through delays at the end of the Congressional session, the House conference decided to accept the Senate version of the bill, and the House passed it. On August 20, 1958, President Eisenhower signed the bill into law, effective June 30, 1960.

The first federal Humane Methods of Slaughter Act covered 80 percent of the U.S. plants by making it compulsory for all slaughter plants selling meat to the federal government to use humane methods.

Just as the bill was about to go into effect, an attempt to undermine it was made. The Military Subsistence Supply Agency, purchaser for all meat for the Armed Forces, announced it would require certification of compliance with the humane slaughter regulations only in contracts exceeding \$2,500. At the time, the agency, through its Chicago headquarters and 10 regional buying offices, purchased about 500 million pounds of meat and meat products per year – a considerable portion in lots of \$2,500 or less.

Sponsors of the legislation, Senator Hubert Humphrey and Representatives W. R Poage and Martha Griffiths, pointed out that such an attempted exemption was illegal. On June 14, Senator Humphrey received a statement from the Army that it would comply in full with the provisions of the Humane Methods of Slaughter Act.

### **Federal Humane Methods of Slaughter Act of 1978**

Senator Robert Dole of Kansas and Congressman George E. Brown, Jr. of California sponsored legislation enacted in 1978 to provide a more effective enforcement mechanism and to expand the coverage of the Act. Based on the laws requiring federal inspection of meat for sanitary and health reasons, the Dole-Brown law is based on the authority it gives federal inspectors to prevent inhumane practices by withholding inspection until any cruel methods are corrected. Profits in the meat industry depend on speed in putting animals through “the line.” Thus, the fear of having an inspector stop the flow for humane reasons is a powerful economic incentive to avoid cruelty.

The law also requires that any meat imported into the U.S be derived from animals slaughtered in establishments whose standards meet those mandated by the federal Humane Methods of Slaughter Act. Importation of meat from inhumanely slaughtered animals is prohibited. Thus, both U.S. importers and foreign exporters of meat and meat products must ensure that humane slaughter methods are used in plants supplying them with meat. USDA personnel have long inspected foreign plants that export to the U.S. in order to assure that sanitary standards are adhered to; thus, inspection for humane standards can be conducted by the same officials.

Despite the eminently sound and sensible provisions of the legislation, meat industry lobbyists worked persistently behind the scenes to delay action. The turning point came when Senator Dole chaired incisive hearings in the Senate Agriculture Committee that led directly to passage of the legislation by the Congress. President Carter approved the amended Federal Meat Inspection Act on October 10, 1978.

Final regulations implementing the 1978 amendments to the federal Humane Methods of Slaughter Act were published in the *Federal Register* on November 30, 1979. Commenting on complaints from the industry about the loss of funds that a plant could suffer when operations are suspended under the law, the USDA’s Administrator of the Food Safety Inspection Service (FSIS) stated:

The principal purpose of the Act is to deter and prevent inhumane treatment, not to punish for violations. Furthermore, the temporary suspension of inspection for inhumane handling or slaughter would be done in the same manner as the temporary suspension of inspection because of sanitation deficiencies. The use of the ‘U.S. Rejected’ tag would similarly have the same function and meaning as when used on insanitary equipment. It may be removed by the inspector in charge when the cause is corrected or satisfactory assurances are given.

The new regulations were the subject of a bulletin to USDA regional directors and supervisors that summarized stunning and humane handling requirements, including the treatment of downed animals, use of electric prods, and maintenance of pens, driveways, and ramps.

The federal humane slaughter regulations have been modified only once in recent years. In 1994 USDA-FSIS amended the regulations to permit use of carbon dioxide to stun and kill pigs.<sup>1</sup> Apparently in response to reports of animal cruelty at slaughter, USDA-FSIS also issued a dozen notices and directives

related to humane slaughter and handling between the late 1990s and 2009. They address such subjects as ritual slaughter procedures, assessing stunning effectiveness, and the treatment of non-ambulatory animals.<sup>2</sup>

Since 1978, Congress has acted on the issue of humane slaughter on three occasions. In 1996 Congress approved legislation to allow the USDA to issue guidelines for the regulation of the commercial transportation of equines for slaughter. Legislation was added in 2002 to address practices involving non-ambulatory animals. This amendment directed the Secretary of Agriculture to investigate and submit a report to Congress on the scope, causes, and treatment of non-ambulatory (or “downed”) animals. If determined to be necessary, the Secretary is to “promulgate regulations to provide for the humane treatment, handling, and disposition of non-ambulatory livestock by stockyards, market agencies, and dealers.”<sup>3</sup> In 2002, as a result of concerns about the adequacy of USDA enforcement of the federal humane slaughter law, Congress passed a resolution expressing the desire that the Secretary of Agriculture fully enforce the humane slaughter law and continue tracking violations and make a report to Congress.<sup>4</sup>

### **Enforcement of the Federal Law**

In response to evidence of inhumane handling or slaughter of livestock, USDA-FSIS may take several regulatory actions, including the issuance of Noncompliance Records, Reject Tags, Notices of Intended Enforcement, Suspension of Inspection, Letters of Warning, and Withdrawal of Inspection.

To evaluate the level of humane law enforcement at federal slaughter plants, AWI commissioned a review of public records relating to humane slaughter. Approximately 500 humane handling and humane slaughter Noncompliance Records issued by the USDA at federal slaughterhouses during an 18-month period were obtained and analyzed. The most common types of humane deficiencies were failure to provide water to animals in pens; failure to maintain pens and other facilities in good repair; and shackling, hoisting and/or cutting of conscious animals.

For the year 2007, less than one percent of all citations for violations of federal food safety laws were issued for humane handling and slaughter. Over a 10-year period from January 1998 through December 2007, USDA-FSIS issued just 71 plant Suspensions for humane handling and slaughter violations, or an average of seven per year. In most cases, the Suspension lasted a day or less.

AWI’s review of humane slaughter enforcement uncovered several serious problems in the USDA’s oversight of the federal humane slaughter law: incomplete and inconsistent record keeping, inadequate reporting of noncompliances, failure to take appropriate action to stop inhumane practices, and inconsistent actions by USDA District Offices. Striking inconsistencies were found in the manner in which violations were handled between inspection personnel at individual plants and between USDA District Offices. In some cases, slaughterhouse operations were halted for relatively minor offenses, such as failure to provide water to animals in pens; while in other cases, USDA officials took no action when plant workers were observed to be repeatedly butchering fully conscious animals.<sup>5</sup>

The findings of AWI’s study are similar to those of two reviews conducted by the U.S. Government Accountability Office (GAO) in 2004<sup>6</sup> and 2008<sup>7</sup>. The GAO reported on problems with the food safety inspection system, including inconsistent oversight, ineffective coordination, and inefficient use of resources. These deficiencies were illustrated in early 2008 when evidence of extreme cruelty at the Westland-Hallmark cattle slaughter plant in Chino, California, was publicized. That incident resulted in

the largest beef recall in U.S. history and a federal audit of 18 beef plants that supply beef to the National School Lunch Program.<sup>8</sup>

A subsequent investigation by the USDA Office of Inspector General concluded that humane slaughter and handling problems are not systemic in the U.S. food safety program, even though half of the 10 “cull” cattle plants reviewed failed to get a passing grade. Animal and consumer advocates point out that the situation is likely far worse than reflected in the Office of Inspector General audit, given that companies have advance notice of inspections to allow workers the opportunity to alter their practices.<sup>9</sup>

AWI conducted a follow-up review of federal humane slaughter enforcement in early 2010 and found that enforcement was up dramatically in the aftermath of the Westland-Hallmark incident. The number of federal Suspensions for humane slaughter increased seven-fold from 2006-2007 to 2008-2009. However, the number of Noncompliance Records written for humane slaughter violations remained constant following Westland-Hallmark, suggesting that the amount of time being devoted to humane handling activities had not increased. The length of Suspensions remained low, and again it was observed that enforcement rates varied significantly by District Office. Moreover, it was noted that the resources devoted to humane handling at the federal level continued to constitute less than two percent of total funding for food safety inspection.<sup>10</sup> A GAO report released in March 2010 reinforced AWI’s findings.<sup>11</sup>

### **State Humane Slaughter Laws**

At one time, states needed to pass humane slaughter legislation in order to cover animals slaughtered at plants that were not federally inspected. However, all states conducting their own meat inspection programs have now adopted by reference the federal food safety regulations, including those related to humane handling and slaughter. Therefore, the humane slaughter provisions of the federal law cover all animals slaughtered under the authority of state food inspection laws.

Because the vast majority of farm animals in the U.S. are killed at federal plants, state laws cannot be considered an effective means of addressing the issue of humane slaughter. Deficiencies in federal law must be remedied through amendments to the Humane Methods of Slaughter Act and its regulations. Nonetheless, state laws are important as they can provide humane coverage to animals not under federal jurisdiction, such as those killed at custom establishments or on the farm by the farm owner/operator, or by a mobile custom slaughterer. State-level laws can also prohibit additional methods of stunning, limit the federal exemption for religious slaughter, and assess additional penalties for violations.

To date, 30 states<sup>12</sup> have passed humane slaughter laws (see below). Most were enacted shortly following passage of the original federal humane slaughter law. All are based on the language of the federal law, and many specifically reference that law. With the exception of New Hampshire and Wisconsin, all state humane slaughter statutes and regulations address only the slaughter process itself, and do not cover the handling of animals prior to slaughter. A number of state humane slaughter laws prohibit the use of a sledgehammer or an ax to stun an animal for slaughter, not specifically banned in the federal law.<sup>13</sup> Connecticut law, for example, provides that “Use of a manually-operated sledge, hammer or poleax to render an animal insensible to pain is prohibited.”

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## State Humane Slaughter Statutes

<u>State</u>	<u>Section No.</u>
Arizona	3-2016 – 3-2017
California	19501 – 19503
Colorado	35-33-103, 35-33-203
Connecticut	22-272a
Florida	828.22 – 828.26
Georgia	26-2-102, 26-2-110.1
Hawaii	159-21
Illinois	510 ILCS 75/0.01 – 75/0.08
Indiana	15-2.1-24-1 – 15-2.1-24-33
Iowa	189A.18
Kansas	47-1401 – 47-1405
Maine	2521 – 2527
Maryland	4-123.1
Massachusetts	94-139C – 94-139F
Michigan	287.551 – 287.556
Minnesota	31.59
Mississippi	75-35-7
New Hampshire	427:33 – 427:37
North Carolina	106-549.17
Ohio	945.01 – 945.03
Oklahoma	2-6-183, 2-6-195
Oregon	603.065
Pennsylvania	2361 – 2362
Rhode Island	4-17-1 – 4-17-7
South Dakota	39-5-23.1 – 39-5-23.2
Utah	4-32.3, 4-32.6
Vermont	3131 – 3134
Washington	16.50.100 – 16.50.170
West Virginia	19-2E-1 – 19-2E-7
Wisconsin	95.80

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Another difference between the federal and state laws is that several states apply their humane slaughter codes to stockyard operations, while the scope of the federal law is limited to slaughter plants. This application, however, has little practical effect, since animals are not typically slaughtered for food at stockyards. The federal humane slaughter law also does not cover farmers killing animals for their personal use, and although custom slaughterers are expected to comply with federal food safety regulations, they are not routinely inspected for compliance. For the most part, state laws do not provide much additional protection for animals killed for custom or personal use. Exceptions include Oregon, Utah, and Washington; all three cover custom and farm (mobile) custom slaughter operations.

Generally, penalties for violation of state humane slaughter laws are minor. For example, Washington’s law assesses the following penalty: “Any person violating any provision of this chapter or of any rule adopted hereunder is guilty of a misdemeanor and subject to a fine of not more than two hundred fifty

dollars or confinement in the county jail for not more than ninety days.” Several states also allow for the filing of injunctions or the suspension of state inspection procedures of slaughter operations found to be in violation of the state humane slaughter code.

Following repeated incidents of inhumane handling at a federally inspected plant in Grand Isle, Vermont, the state of Vermont passed legislation enhancing its penalties for violations of the state humane slaughter law. Monetary fines are increased up to \$1,000 for the first violation, \$5,000 for the second violation, and \$10,000 for third and subsequent violations. In addition, the agriculture department may seek an injunction against any slaughter establishment found to be violating the humane slaughter law and may refer humane slaughter violations to the attorney general for criminal prosecution. Federally inspected slaughter plants must submit, within five days of receipt, any documents received from the USDA related to humane slaughter violations.<sup>14</sup>

Animal advocates have looked to state anti-cruelty laws as a possible means of applying stronger penalties to incidents of inhumane slaughter. Although all 50 states have enacted anti-cruelty laws, approximately two dozen exempt accepted agricultural practices (see table below). This exemption does not necessarily preclude prosecution of inhumane slaughter cases, since the meat industry has established clear standards for the humane handling and slaughter of livestock. Three of the states that exempt agricultural practices under cruelty laws, as well as two additional ones, exempt slaughter by “approved methods.” Again, this limitation should not automatically rule out prosecution of inhumane slaughter under the law. However, prosecution could be precluded under the anti-cruelty laws of five states that exempt slaughter in general.

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### **Slaughter and State Anti-Cruelty Laws**

#### State laws exempting accepted agricultural practices (22 states):

Alaska, Arizona, Connecticut, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Michigan, Missouri, Montana, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, West Virginia, Wyoming

#### State laws exempting slaughter by approved methods (5 states):

Connecticut, Delaware, Idaho, Oregon, South Dakota

#### State laws exempting slaughter generally (5 states):

Georgia, Illinois, Kentucky, North Carolina, Rhode Island

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To date, attempts to pressure state officials to prosecute inhumane slaughter under state animal cruelty codes have proven unsuccessful. Individuals have been prosecuted for neglect/abuse of animals on the premises of a slaughterhouse in at least three cases, but no instances have been located of successful

prosecution of inhumane treatment during the slaughter process itself. In declining to prosecute under anti-cruelty statutes, state and local officials have cited either lack of evidence or federal jurisdiction over slaughter establishments.<sup>15</sup>

## **Enforcement of State Laws**

Although a vast majority of animals slaughtered for food in the U.S. are killed at federal plants, the treatment of animals at non-federal plants is important and should be addressed in any attempt to improve U.S. humane slaughter practices. There are more than 2,000 non-federally inspected slaughter plants in the U.S. These plants are inspected for compliance with food safety regulations, including those pertaining to humane handling and slaughter, by state and/or federal agricultural inspectors.

To evaluate the level of humane law enforcement at non-federal slaughter plants, AWI commissioned a public records review of U.S. state meat inspection programs.<sup>16</sup> All records relating to humane slaughter, including enforcement actions for violations of humane handling/slaughter regulations, were requested for a three-year period from January 1, 2002 through December 31, 2004.

Relatively few documents were provided by the states. Of the 30 states accredited to administer humane slaughter programs at the time of the review,<sup>17</sup> 20 states provided no humane enforcement records. Four states issued at least one deficiency record, but took no further actions, during the period. Another six states took at least one action for inhumane slaughter beyond issuance of a deficiency record. Those states are California, Kansas, Minnesota, Ohio, South Carolina, and Wisconsin.<sup>18</sup>

AWI resurveyed state meat inspection programs in early 2010 and found humane slaughter enforcement to be significantly increased in many states. For the period 2007-2009, states issued a total of 410 Noncompliance Records (versus 72 for the period 2002-2004) and 12 Suspensions (versus 4 for 2002-2004). Some states took a significantly greater number of enforcement actions than others. South Carolina, Wisconsin, and Wyoming issued the most Noncompliance Records per plant inspected. No enforcement records were provided by six states (Arizona, Louisiana, South Dakota, Utah, Vermont, and Virginia).<sup>19</sup>

## **Religious Slaughter**

The method of killing animals for Jewish and Islamic ritual slaughter has been a subject of intense controversy in connection with humane slaughter laws. It is generally agreed that killing with prior stunning is more humane than killing without stunning, which is not allowed under some religious authorities. Moreover, the pre-slaughter handling of animals in kosher slaughter is definitely inhumane when conscious animals are shackled and hoisted before the killing cut is administered.

Shackling and hoisting are not a part of the ritual of kosher slaughter, but they have become a standard practice, because the USDA sanitary regulations prohibit contact of the cut surface of the animal's neck with the slaughterhouse floor. This might occur with the traditional method of casting the animal on the floor before the ritual cut. Ritual slaughter requires that the animal be uninjured, so prior stunning has been deemed unacceptable in the U.S., although rabbinical authorities in certain other countries have approved pre-slaughter stunning. Thus, typically, to perform the ritual throat cutting, a shackle is attached to one leg of the animal, which is then hoisted so that the animal hangs upside-down by his shackled leg. The animal is then conveyed to the killing floor, struggling and sometimes suffering from a broken leg or split pelvis.



A religious slaughter amendment was added to the original Humane Slaughter Act of 1958 due to a lack of availability of humane restraining devices at the time. In the early 1960s, Cross Brothers in Philadelphia patented a holding pen that held adult cattle in a standing, upright position before and during kosher slaughter. The patents to this pen were purchased by the American Society for the Protection of Cruelty to Animals, and it was made available royalty-free to the meat industry.

In 1980, the first conveyORIZED, high-speed, upright restraint system for kosher slaughter was installed at Spencer Foods in Spencer, Iowa. In 1986, the first humane restraint system for kosher calves and sheep was installed at Utica Veal in Marcy, New York. The system was designed by Dr. Temple Grandin and researchers at the University of Connecticut, with a grant from the Council for Livestock Protection.

Now that good restraint equipment is available, the cruel practice of shackling and hoisting without prior stunning should be abolished. Shackling and hoisting as a method of restraint is not permitted in a number of countries, including Australia, Canada, Holland, the United Kingdom, and other European nations. The elimination of conscious shackling and hoisting will have the added advantage of improving employee safety. Many kosher slaughter plants have voluntarily converted to humane restraint devices for large cattle, but unfortunately, some smaller plants continue to use the shackle-hoist. For veal calves, however, only about half are slaughtered using humane restraining equipment, and nearly all kosher-killed sheep and lambs are still shackled and hoisted prior to ritual slaughter in the U.S.<sup>20</sup> Simple, economical devices now available for even the smallest plants that slaughter calves and sheep make the necessary change readily attainable. Legislation is needed to require humane restraint devices to be used for all animals.

The Federal Humane Methods of Slaughter Act not only identifies slaughtering in accordance with ritual requirements of the Jewish or other religious faith as humane, it also spells out that “the handling or other preparation of livestock for ritual slaughter are exempted” from the Act. All states with humane slaughter laws have included a similar exemption for religious slaughter. However, while the federal law includes language that covers handling for religious slaughter, state laws typically refer to slaughter only.

A few states have attempted to encourage, if not require, the use of holding pens for religious slaughter in order to avoid shackling and hoisting of conscious animals. Connecticut was the first state to require use of holding pens that allow animals not previously stunned to be cut while upright. However, a general exception to the law for religious slaughter makes use of the pens voluntary under Connecticut’s law. Indiana and Michigan require that animals killed in accordance with requirements of a religious faith be cut “immediately following total suspension from the floor.” New Hampshire and Pennsylvania limit their exemption for religious slaughter until such a time when acceptable alternatives are available.

The ritual exclusion does not exempt ritual slaughter establishments from complying with humane handling requirements, only handling in conjunction with preparation for religious slaughter. Moreover, slaughter plants may be cited for failure to produce unconsciousness “by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.” For example, USDA-FSIS has issued Noncompliance Records to slaughter establishments for using multiple cutting strokes before severing the arteries. The inspector filing one such citation noted that a 10-animal sample averaged more than five back and forth cutting strokes before severing the arteries. In another case, FSIS issued a Noncompliance Record to an Islamic establishment for stabbing conscious lambs directly in the heart. In addition, FSIS and the Texas Department of Health have cited plants for using ritual slaughter

procedures in the absence of a Jewish or Muslim representative and for failure to have on file written ritual slaughter procedures from a religious authority.

### **Species Covered by Humane Slaughter Laws**

The 1958 humane slaughter law requires pre-slaughter stunning of “cattle, calves, horses, mules, sheep, swine, and *other livestock*” (emphasis added). However, the 1978 amendments to the Federal Meat Inspection Act reference “cattle, sheep, swine, goats, horses, mules, or other equine,” with no mention of *other livestock*. USDA has not promulgated regulations to cover any additional species, with the exception of exotic animals, defined as reindeer, elk, deer, antelope, bison, and water buffalo. Stunning of these animals must be performed in accordance with the federal humane slaughter regulations, but only if the slaughter establishment wishes to market its products as being government (federal or state) inspected. At present, federal food inspection is not required for the slaughter of exotic animals, except under a voluntary program.

In 2000, Congress provided that the slaughter of ratites and squabs be subject to the ante-mortem and post-mortem requirements of the Poultry Products Inspection Act.<sup>21</sup> While extending USDA inspection to these species does not place the animals under the protection of the humane slaughter law, it would allow for an enforcement mechanism should Congress or the USDA decide to amend the law or its regulations to cover these bird species.

U.S. humane slaughter laws currently ignore 98 percent of all animals killed for food, as the USDA has not applied the federal law to birds. Animal advocates have made several attempts to promote the protection of chickens, turkeys, and other birds at slaughter, including the introduction of federal legislation.<sup>22</sup> Moreover, in November 2005, The Humane Society of the United States, joined by East Bay Animal Advocates and several individual consumers, filed a complaint in the Federal District Court in San Francisco under the Administrative Procedures Act, seeking humane slaughter coverage for birds.<sup>23</sup>

Nearly half of the 30 states with humane slaughter laws extend protection to species not covered under the federal law (refer to table below). Ungulates are the most commonly added species. Six states cover ratites, and five cover bison. The laws of three states – California, Indiana and Utah – include poultry; however, only California has enacted regulations to implement the humane slaughter of birds. Although Maine’s humane slaughter law refers only to “livestock,” in the opinion of the state veterinarian, the absence of a description of acceptable slaughter methods for poultry does not exclude poultry from humane slaughter.

Unlike the federal humane slaughter law, some state laws specifically exempt poultry. Some state laws have been written to limit coverage to listed species only. For example, Oregon’s law is limited to “cattle, equines, sheep or swine,” and Washington’s lists only “cattle, calves, sheep, swine, horses, mules and goats.” On the other hand, some include coverage for other animal species that may be slaughtered for meat. For example, Maryland’s humane slaughter statute defines livestock as “cattle, calves, sheep, swine, horses, mules, goats, or *other animals that may be used in the preparation of a meat product* (emphasis added).” New Hampshire includes “other species of animals susceptible of use in the production of meat and meat products.”

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### Additional Animals Covered Under State Laws

<u>Species</u>	<u>States</u>
Aquatic Animals	Kansas
Rabbits	Georgia, Maine
Poultry	California, Indiana, Utah
Ratites	Florida, Georgia, Indiana, Kansas, New Hampshire, South Dakota
Bison, Buffalo	Georgia, New Hampshire, North Carolina, Oklahoma, Vermont
Llama, Alpaca, Yak	New Hampshire
Deer, Elk, Reindeer	California (fallow deer), Georgia (non-traditional livestock, farm-raised deer), Indiana (farm-raised deer), Iowa (farm-raised deer), Kansas (domesticated deer), Maine (domestic deer), New Hampshire (elk, fallow deer, red deer, reindeer), North Carolina (fallow deer, red deer), South Dakota (captive cervidae), Utah (domestic elk), Vermont (fallow deer), Wisconsin (farm-raised deer)

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### International Standards

In 2005, the World Organization for Animal Health (“OIE”), with 176 member countries and territories, adopted international Guidelines for the Slaughter of Animals for Human Consumption. This followed by more than 25 years the signing of a European Convention for the Protection of Animals for Slaughter, which by 2010 had been signed and ratified by 25 nations. Moreover, in 1993, the European Union adopted a Directive on the Protection of Animals at the Time of Slaughter or Killing, replacing the previous Directive on Stunning of Animals before Slaughter.

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<sup>1</sup> The amendment was prompted by a petition filed by the Danish and Swedish Meat Research Institute on behalf of Danish pork companies wanting to import into the U.S. products from animals killed with carbon dioxide gas.

<sup>2</sup> FSIS has also developed and distributed several Humane Interactive Knowledge Exchange (HIKE) scenarios designed to educate inspectors on proper handling of potential humane handling and slaughter situations. USDA notices, directives and HIKE scenarios related to humane slaughter are available on the department’s website.

<sup>3</sup> Following the discovery of a cow with bovine spongiform encephalopathy (“mad cow” disease) in the U.S. in 2004, USDA published regulations prohibiting the slaughter of non-ambulatory disabled cattle. However, the rule allowed slaughter plant inspectors to determine the disposition of cattle that became non-ambulatory after passing ante-mortem inspection on a case-by-case basis. USDA proposed to close the loophole in August 2008, following exposure of incidents of inhumane treatment of downed cattle at a California slaughter plant. The rule was finalized in 2009.

<sup>4</sup> Despite Congress urging USDA to report annually on trends in compliance with humane slaughter methods, between 2002 and 2009, the USDA provided only two reports to Congress and these were based on incomplete data, according to the U.S. Government Accountability Office (GAO).

<sup>5</sup> Complete findings of the AWI analysis of federal enforcement are contained in the report, *Crimes without Consequences: The Enforcement of Humane Slaughter Laws in the United States*, researched and written by Dena Jones, May 2008.

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<sup>6</sup> Government Accountability Office, *Humane Methods of Slaughter Act: USDA has addressed some problems but still faces enforcement challenges*, GAO-04-247, January 2004.

<sup>7</sup> Government Accountability Office, *Humane methods of handling and slaughter: Public reporting on violations can identify enforcement challenges and enhance transparency*, GAO-08-686T, April 17, 2008.

<sup>8</sup> The audit found humane handling violations in four of the 18 plants, with one serious enough to result in plant suspension.

<sup>9</sup> The Hallmark slaughter plant, where incidents of cruelty were captured on videotape, received high marks in two independent audits conducted a matter of days prior to the shooting of the video.

<sup>10</sup> Animal Welfare Institute, *Humane Slaughter Update: Comparing State and Federal Enforcement of Humane Slaughter Laws*, July 2010.

<sup>11</sup> Government Accountability Office, *Humane Methods of Slaughter Act: Weaknesses in USDA enforcement*, GAO-10-487T, March 2010.

<sup>12</sup> Not counting Idaho, which repealed its humane slaughter law in 2006.

<sup>13</sup> Although the federal law does not prohibit use of a hammer or ax, USDA-FSIS does not consider these to be acceptable mechanical means of stunning.

<sup>14</sup> 6 VSA Section 3134.

<sup>15</sup> Attempts to apply state animal cruelty laws to inhumane slaughter practices are described in Section 8 of *Crimes without Consequences*, cited in note 5.

<sup>16</sup> Results of AWI's review of state enforcement are described in *Crimes without Consequences*, cited in note 5.

<sup>17</sup> One state – New Mexico – has since lost its accreditation.

<sup>18</sup> *Crimes without Consequences*, op cit.

<sup>19</sup> *Humane Slaughter Update*, op cit.

<sup>20</sup> A paper supporting humane slaughter using upright pens and finding shackling and hoisting to be a violation of Jewish laws forbidding cruelty to animals was approved by the Committee on Jewish Law and Standards (CJLS) of the Rabbinical Assembly on September 20, 2000. The CJLS provides guidance in matters of *halakhah*, but the individual rabbi is considered the authority for the interpretation and application of all matters of *halakhah*.

<sup>21</sup> 21 USC Section 455.

<sup>22</sup> The Humane Methods of Poultry Slaughter Act was introduced in the U.S. House of Representatives in 1992 (H.R. 264), 1993 (H.R. 649) and 1995 (H.R. 4124).

<sup>23</sup> In March 2008, a federal district judge found that chickens are not "livestock" and are therefore not subject to the Humane Methods of Slaughter Act. In late 2009, the U.S. Ninth Circuit Court of Appeals ruled that The Humane Society of the United States did not have standing to pursue the lawsuit. The court said the animal advocacy organization could not show that the alleged injury to poultry by continued omission from the act would be redressed by a favorable ruling and handed the case back to the district court to be dismissed.

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