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Congress Addresses Federally-Funded Animal Research Lab

Angela Sukurs

LAWS THAT PROTECT ANIMAL RIGHTS

Whether someone owns a pet, eats meat, raises livestock, or engages in a sport involving animals, it is undeniable that these creatures play a large role in the lives of humans. Historically, laws in the U.S. that dealt with animals did so in the context of property rights.¹ In the early-mid twentieth century this economic view of animals shifted as many recognized the interest of animals to avoid intentional pain and suffering.² Further, the domestication of animals shifted society's general perception of animals to a more sympathetic viewpoint.³ Because of this growing sympathetic view towards animals, anticruelty statutes such as the Federal Humane Methods of Livestock Slaughter Act (Humane Slaughter Act) and the Animal Welfare Act (AWA) emerged in the mid-twentieth century to protect and regulate the way that animals are treated both in agriculture as well as research.⁴

The purpose of the Humane Slaughter Act was to outline methods of slaughter that would be considered humane, to designate methods of slaughter research, to exempt religious or ritual slaughter from these regulations, and to compel the Secretary of Agriculture to investigate and report back to Congress the treatment of nonambulatory livestock.⁵ Congress asserted in its policy declaration that, "the use of humane methods in the slaughter of livestock . . . brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors, and consumers," concluding that, "[i]t is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods."⁶ In this legislation, Congress avows its intention to prevent inhumane practices for the benefit of producers, consumers, quality of products and the economy.⁷ Yet the egregious practices of factory farms across the country, particularly the feder-

¹ Joseph Lubinski, *Introduction to Animal Rights*, ANIMAL LEGAL AND HISTORICAL CTR. (2004), <https://www.animallaw.info/article/introduction-animal-rights-2nd-ed>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ 7 U.S.C. § 1902-1907 (2014).

⁶ 7 U.S.C. § 1901 (2014).

⁷ *Id.*

ally funded U.S. Meat Animal Research Center, do not align with this protective declaration.⁸

The AWA defines who may possess and sell specific animals, and the living conditions that must be maintained for these animals.⁹ While the 1966 AWA was considered a “watershed federal law,” it completely excludes protection over farm animals used in agricultural research.¹⁰ In fact, in its definition of “animal,” the law specifically “excludes . . . other farm animals, such as but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber.”¹¹

Because this group of farm animals is purposely exempted from the AWA, several companies and universities that conduct animal research have sought to establish an industry standard by seeking out “independent overseers and join[ing] organizations that scrutinize their research and staff.”¹² For example, Eli Lilly, which conducts animal research for pharmaceutical development, has been accredited for over 35 years by the Association for the Assessment and Accreditation of Laboratory Animal Care (AAALAC).¹³ The AAALAC is a private, non-profit organization that accredits companies, universities, hospitals, and other organizations all over the world promoting humane treatment of animals in research.¹⁴ Its’ *Guide for the Care and Use of Agricultural Animals in Research and Testing* sets standards regarding animal procurement, surgery, residue avoidance, zoonotic diseases, restraint, transgenic and genetically engineered animals, human slaughter, and other areas.¹⁵ This independent organization is one example of how companies, universities, and other organizations who engage in animal research fill the gap that the AWA leaves open by exclud-

⁸ Michael Moss, *U.S. Research Lab Lets Livestock Suffer in Quest for Profit*, N.Y. TIMES, Jan. 19, 2015, available at http://www.nytimes.com/2015/01/20/dining/animal-welfare-at-risk-in-experiments-for-meat-industry.html?_r=1.

⁹ 7 U.S.C. § 2131 – 2159 (2013).

¹⁰ Moss, *supra* note 8.

¹¹ 7 U.S.C. § 2132(g)(3) (2013).

¹² Moss, *supra* note 8.

¹³ Animal Research, Eli Lilly, available at <http://www.lilly.com/Responsibility/medicine-development/Pages/animal-research.aspx>.

¹⁴ Association for Assessment and Accreditation of Laboratory Animal Care International, available at <http://www.aaalac.org/about/index.cfm>.

¹⁵ FEDERATION OF ANIMAL SCIENCE STUDIES, *GUIDE FOR THE CARE AND USE OF AGRICULTURAL ANIMALS IN RESEARCH AND TEACHING* (2010) [hereinafter *Animal Science Studies*], available at http://www.aaalac.org/about/Ag_Guide_3rd_ed.pdf.

ing farm animals from its protection.¹⁶ Rather than self-regulating, these companies that use the AAALAC choose to hire outside supervision and assessment to ensure humane practices.¹⁷ However, the U.S. Meat Animal Research Center (the center), which conducts federally-funded animal research, has recently gained widespread notoriety for its self-regulated, inhumane practices.¹⁸

U.S. MEAT ANIMAL RESEARCH CENTER

The center is in a remote location on the Nebraska plains where scientists are tailoring farm animals for 21st-century meat production by re-engineering them altogether.¹⁹ One troubling aspect about this center for taxpayers is that it is financed by tax dollars.²⁰ Another issue that animal rights organizations, such as National Anti-Vivisection Society (NAVS), are concerned about is the fact that the center is self-regulated by the U.S. Department of Agriculture (USDA).²¹ Every facility that uses animals for federally funded laboratory research must have an Institutional Animal Care and Use Committee (IACUC).²² Although the USDA is charged with overseeing the center's operations, it "does not closely monitor the center's use of animals, or even enforce its own rules requiring careful scrutiny of experiments."²³ Because of the lack of USDA oversight and improper completion of IACUC reports, tremendously controversial research practices occurred at the center.²⁴

Of these practices, perhaps one of the most controversial is the center's breeding of large mother pigs so that they can generate more piglets.²⁵ Because of the "re-engineered" litter size and mother size, hundreds of piglets are crushed by their own mother each year.²⁶ Cows, pigs, and lambs are bred to produce triplets rather than the singles or twins that they naturally produce.²⁷ A 2004 trial that continues to this day attempts to cut the cost of sheep main-

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Moss, *supra* note 8.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Interview with Marcia Kramer, Director of Legal/Legislative Programs, National Anti-Vivisection Society, in Chicago, Ill. (Mar. 24, 2015).

²³ Moss, *supra* note 8.

²⁴ Interview with Marcia Kramer, *supra* note 22.

²⁵ Moss, *supra* note 8.

²⁶ *Id.*

²⁷ *Id.*

tenance (dubbed “easy care” sheep).²⁸ Instead of having their sheep depend on a human shepherd, the researchers created a breed that could theoretically survive independently.²⁹ Rather than protecting pregnant ewes in special barns, this practice simply sends them to open pastures to give birth despite severe weather conditions and predators such as coyotes.³⁰ Because ewes often abandon their newborn babies before they can bond, lambs have been dying in the open fields in astronomical numbers, and for no good reason other than to cut costs.³¹ Whereas the standard industry death toll for lambs is somewhere around 10 percent, between one-quarter and one-third of the lambs at the center die due to this practice.³²

Understandably, meat production is a “rough enterprise,” but even among its factory farming counterparts, the center stands out for the harm it knowingly imposes on farm animals.³³ In particular, the center is known for its rough handling of animals, using unnecessarily violent tactics during experiments.³⁴ Dr. Keen, a veterinarian formerly employed by the center for twenty-five years, approached the *New York Times* with these concerns.³⁵ Dr. Keen cited a “recurring failure to fully consider the pain that animals suffer during experiments, or in everyday life at the center.”³⁶ Scientists without medical degrees euthanize and operate on animals, several bulls will mount a single cow for hours to study their libido, staff members are unskilled and undertrained, and animals fall from carts on their way to surgery while staff members fail to respond.³⁷ Currently, there is not a single scientist with a veterinary degree employed at the center, whereas twenty years ago there were six.³⁸ As a result, there is a divide between the research goals of the scientists and the animal welfare agendas of the veterinarians.³⁹

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

ANIMAL WELFARE IN THE AGRICULTURAL RESEARCH ENDEAVORS ACT

To respond to the gap in the AWA and the inhumane practices at the center, federal lawmakers introduced a bill on February 5, 2015 that would require certain protections for farm animals used in agricultural research facilities.⁴⁰ The Animal Welfare in Agricultural Research Endeavors (AWARE) Act has gained support from both democrats and republicans. Congressman Blumenauer (D-Oregon) was joined by Reps. Mike Fitzpatrick (R-Penn.), Vern Buchanan (R-Fla.), and Louise Slaughter (D-N.Y.) to advocate for passage of the act.⁴¹

The AWARE Act would amend AWA Section 14 by adding: “Exclusions not applicable. – For purposes of the application of standards and other requirements described in paragraph (1) to a Federal research facility or any other department, agency, or instrumentality of the United States having laboratory animal facilities, the exclusions contained in section 2(g)(3) shall not apply.”⁴² This law would result in a federally mandated, uniform standard for inspecting animal research facilities.⁴³

NAVS completely supports the AWARE Act, because any change that brings awareness and has to do with improvements in the conditions of animals is a step in the right direction.⁴⁴ However, this Act merely closes a tiny exemption; it only applies to animals used for federally-funded research.⁴⁵ The mission statement of the USDA, the department in charge of implementing the AWA, never mentions anything about protecting animal welfare.⁴⁶ According to Marcia Kramer of NAVS, an ideal solution would be to take AWA away from the USDA and put it with another agency.⁴⁷ Another, perhaps more realistic option is to change the mission statement of the USDA to in-

⁴⁰ Wayne Pacelle, *Breaking News: Bill in Congress Proposes End to Animal Torture at Federal Labs*, HUFFINGTON POST, Feb. 6, 2015, available at http://www.huffingtonpost.com/wayne-pacelle/breaking-news-bill-in-congress-proposes-end-to-farm-animal-torture-at-federal-labs_b_6630214.html.

⁴¹ *Id.*

⁴² Animal Welfare in Agricultural Research Endeavors Act, H.R. 746, 114th Cong. § 14(3) (2015).

⁴³ Pacelle, *supra* note 40.

⁴⁴ Interview with Marcia Kramer, *supra* note 22.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

clude animal welfare, which is something NAVS has considered advocating for.⁴⁸

Currently, the center remains in operation and financed by U.S. tax dollars. As long as the center is financed in this way, the public should demand humane practices, accountability and independent oversight in order to ensure compliance with federal laws.

⁴⁸ *Id.*