

# INTRODUCTION

## ANIMAL WELFARE: ITS PLACE IN LEGISLATION

By  
Congressman Christopher Shays\*

Animals are vital to our livelihood, and humankind has an obligation to all animals. While one would hope this knowledge would be widespread, much legislation regarding the protection of all kinds of animals and pets remains to be brought to the House floor. I am committed to animal welfare, and I believe strongly in protecting those that need it the most.

On September 22, 2005, Congressman Tom Lantos and I, as co-chairs of the Congressional Friends of Animals Caucus, introduced H.R. 3858, the Pets Evacuation and Transportation Standards (PETS) Act.<sup>1</sup> This common-sense bill requires state and local preparedness groups to include plans for the evacuation of pet owners, pets, and service animals in the event of a major disaster.<sup>2</sup>

Hurricane Katrina left so many victims in its wake, including up to 600,000 animals that lost their lives or were left without shelter.<sup>3</sup> Katrina taught us the hard lesson that, as we prepare for future emergencies, it is important we protect our pet owners in our plans, many of whom had to choose between their safety and the safety of their pets.

In order to qualify for Federal Emergency Management Agency (FEMA) funding, a jurisdiction is required to submit a document de-

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\* © Christopher Shays 2005. Congressman Shays has been a United States Representative of Connecticut's Fourth Congressional District from 1987 to present.

<sup>1</sup> H.R. 3858, 109th Cong. (Sept. 22, 2005) (as introduced) (amendment to 42 U.S.C. § 5196(b) (2000)).

<sup>2</sup> *Id.* at § 2.

<sup>3</sup> See Cheyenne Hopkins, *CQ Bill Analysis*, 2005 Congressional Quarterly (Oct. 7, 2005) (available at 2005 WLNR 16480023) (Congressman Lantos introduced the H.R. 3858 PETS Act as a response to the problems encountered during Hurricane Katrina, explaining that "as many as 69 percent of [New Orleans residents] are pet owners and . . . as many as 600,000 pets and animals [were] affected by the devastation of Hurricane Katrina.").

tailoring their disaster preparedness plan.<sup>4</sup> The PETS Act would simply require state and local emergency preparedness authorities to plan for how they will accommodate households with pets or service animals when presenting these plans to FEMA.<sup>5</sup>

This bipartisan legislation is necessary because, when asked to choose between abandoning their pets or their own personal safety, many pet owners choose to risk their lives and remain with their pets.<sup>6</sup> Thus, this is not just an animal welfare issue. It is a public safety issue.

There are a number of other animal welfare issues that beg legislative attention. Our work is far from done. Issues such as the humane treatment of animals,<sup>7</sup> puppy mills,<sup>8</sup> horse slaughter,<sup>9</sup> the protection and recovery of endangered species,<sup>10</sup> wildlife protection measures,<sup>11</sup> and hunting regulations<sup>12</sup> are a few of many animal welfare challenges that must be addressed.

The cruel and senseless slaughter of American horses for human consumption in foreign markets remains a threat. On June 8, 2005, I voted for an amendment offered by Congressmen John Sweeney and John Spratt to H.R. 2744, the FY 06 Agriculture Appropriations Act, which prevents horse slaughter.<sup>13</sup> This amendment prohibits the use of funds in the bill to pay salaries and expenses of personnel to inspect horses under the Federal Meat Inspection Act,<sup>14</sup> which is required

<sup>4</sup> 42 U.S.C. § 5131 (2000).

<sup>5</sup> H.R. 3858, 109th Cong. at § 2.

<sup>6</sup> See Jay Romano, *Your Home: Protecting Pets in a Disaster*, N.Y. Times 14 (Sept. 25, 2005) (available at 2005 WLNR 15110873) (for tips on how to prepare to avoid the plight of pet owners in Hurricane Katrina who refused to abandon their pets to evacuate).

<sup>7</sup> See H.R. 817, 109th Cong. (Feb. 15, 2005) and Sen. 382, 109th Cong. (Feb. 15, 2005) (passed unanimously in the Senate; reprinted in 151 Cong. Rec. S4605 (daily ed. Apr. 28, 2005)) (Animal Fighting Prohibition Enforcement Act of 2005 to strengthen prohibitions against animal fighting); see also H.R. 3931 & Sen. 1779, 109th Cong. (Sept. 28, 2005) (Downed Animal Protection Act, to amend the Humane Methods of Slaughter Act to establish a permanent ban on the slaughter of downed livestock).

<sup>8</sup> See H.R. 2669, 109th Cong. (May 26, 2005) and Sen. 1139, 109th Cong. (May 26, 2005) (as introduced) (amendment to 7 U.S.C. §§ 2131–2159 (2000)) (The Pet Animal Welfare Statute (PAWS) amends the Animal Welfare Act by strengthening the ability of the Secretary of Agriculture to regulate pet breeding operations).

<sup>9</sup> See *infra* n. 15 (amendment to H.R. 2744, the FY 06 Agriculture Appropriations Act, which prohibits the use of federal funds to pay salaries of personnel to inspect horses as is required before animals can be sold for human consumption); see also H.R. 503, 109th Cong. (Feb. 1, 2005) and Sen. 1915, 109th Cong. (Oct. 25, 2005) (as introduced) (American Horse Slaughter Protection Act, which would amend the Horse Protection Act to prohibit horses from being slaughtered for human consumption).

<sup>10</sup> See *infra* nn. 22–36 (discussing proposed changes to the ESA).

<sup>11</sup> See *infra* nn. 22–36 (discussing proposed changes to the ESA).

<sup>12</sup> See H.R. 1688, 109th Cong. (Apr. 19, 2005) and Sen. 304, 109th Cong. (Feb. 7, 2005) (Sportsmanship in Hunting Act seeks to halt the interstate transport of exotic animals for use in canned hunts).

<sup>13</sup> Off. of the Clerk, U.S. H.R., *Final Vote Results for Roll Call 233*, <http://clerk.house.gov/evs/2005/roll233.xml> (June 8, 2005) (Roll call for Sweeney Amendment).

<sup>14</sup> 21 U.S.C. §§ 601–611, 615–624, 641–645, 661, 671–680 (2000).

before the horses can be sold.<sup>15</sup> The amendment passed the House by a vote of 269 to 158.<sup>16</sup>

I am adamantly opposed to the practice of slaughtering horses for human consumption. That is why I am a cosponsor of H.R. 503, which amends the Horse Protection Act<sup>17</sup> to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption.<sup>18</sup>

This bill would prohibit any person from: (1) slaughtering a horse for human consumption; (2) importing to, or exporting from, the United States horse flesh or horses for human consumption; or (3) selling, bartering, transferring, receiving, or distributing horse flesh or horses for human consumption.<sup>19</sup> The bill would impose penalties on persons who violate these provisions.<sup>20</sup> Horses are not just companion and recreational animals. They are a vital part of our nation's culture and history.<sup>21</sup>

The Endangered Species Act (ESA)<sup>22</sup> has also been recently debated in Congress. First enacted in 1973, the ESA is credited with preventing the immediate disappearance of more than one thousand wildlife species, including the bald eagle, grizzly bear, and Pacific salmon.<sup>23</sup> I support the preservation and protection of endangered species, and I oppose efforts to weaken the ESA.

I voted against H.R. 3824, the Threatened and Endangered Species Recovery Act (TESRA), because I strongly support the preservation and protection of endangered species and oppose any efforts to weaken the existing law.<sup>24</sup> Regrettably, on September 29, 2005, H.R. 3824 passed the House by a vote of 229 to 193.<sup>25</sup> TESRA makes it more difficult to list species as endangered or threatened<sup>26</sup> and sweeps away

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<sup>15</sup> 151 Cong. Rec. H4247 (daily ed. June 8, 2005).

<sup>16</sup> Off. of the Clerk, U.S. H.R., *supra* n. 13, at <http://clerk.house.gov/evs/2005/roll233.xml>.

<sup>17</sup> 15 U.S.C. §§ 1821–1831 (2000).

<sup>18</sup> H.R. 503, 109th Cong. (Feb. 1, 2005).

<sup>19</sup> *Id.* at § 1(c).

<sup>20</sup> *Id.* at § 1(d)–(e).

<sup>21</sup> D.S. Mills & S.M. McDonnell, *The Domestic Horse: The Origins, Development and Management of its Behaviour* (Cambridge U. Press 2005).

<sup>22</sup> *Endangered Species Act of 1973*, 16 U.S.C. §§ 1531–1544 (2000).

<sup>23</sup> The U.S. Fish and Wildlife Service reports that there are currently 1,270 plants and animals listed as threatened or endangered under the ESA. Threatened and Endangered Species System (TESS), *Summary of Listed Species, Species, and Recovery Plans as of 11/12/2005*, [http://ecos.fws.gov/tess\\_public/TESSBoxscore](http://ecos.fws.gov/tess_public/TESSBoxscore) (updated Nov. 12, 2005). Since the adoption of the ESA, only nine listed species have gone extinct. TESS, *Delisted Species Report as of 11/12/2005*, [http://ecos.fws.gov/tess\\_public/servlet/gov.doi.tess\\_public.servlets.Delisted?listings=0](http://ecos.fws.gov/tess_public/servlet/gov.doi.tess_public.servlets.Delisted?listings=0) (updated Nov. 12, 2005).

<sup>24</sup> H.R. 3824, 109th Cong. (2005) (reprinted in 151 Cong. Rec. H8583 (daily ed. Sept. 29, 2005)).

<sup>25</sup> 151 Cong. Rec. H8583 (daily ed. Sept. 29, 2005).

<sup>26</sup> H.R. 3824, 109th Cong. at § 4.

many regulatory protections for those that are listed as such.<sup>27</sup> The bill also weakens the process by which the government ensures its own actions do not jeopardize species<sup>28</sup> and creates a mandatory entitlement program for private property owners,<sup>29</sup> which is likely to be hugely expensive. Finally, the bill appears to give the opinions of individuals without any scientific expertise equal standing with those of scientists<sup>30</sup> and repeals protections against hazardous pesticides.<sup>31</sup>

On September 22, 2005, I wrote a letter along with twenty-two of my colleagues to former House Majority Leader Tom DeLay, urging him to postpone consideration of H.R. 3824 to allow time to carefully read the bill and understand its ramifications.<sup>32</sup> As you may know, the legislation was introduced, marked up in committee, and voted on all within two weeks.<sup>33</sup>

During debate, I spoke against H.R. 3824 and in support of an amendment in the nature of a substitute bill offered by Congressmen George Miller and Sherry Boehlert.<sup>34</sup> The amendment would have prevented the creation of the mandatory entitlement program for private property owners and restored the role of science in the ESA.<sup>35</sup> In my comments, I stated:

The Endangered Species Act is working. According to the U.S. Fish and Wildlife Service, 99 percent of the species ever listed under the Endangered Species Act have been prevented from going extinct, and 68 percent are stable or improving; but the recovery plans in place may need 50 years to restore these to relative abundance.<sup>36</sup>

Unfortunately, the amendment failed by a vote of 206 to 216.<sup>37</sup>

The ESA has been a guiding force for the preservation of species in danger of extinction for over thirty years, and it is vitally important that we not alter it in any way that could result in the layers of protection being compromised to the detriment of the species it was designed to protect.

Animal welfare will continue to be a challenge. By advocating animal welfare legislation at the federal level, states, the private sector, and individuals can follow clearer, more humane guidelines

<sup>27</sup> *Id.* at § 5.

<sup>28</sup> *Id.* at § 11.

<sup>29</sup> *Id.* at § 13.

<sup>30</sup> *Id.* at § 3(a)(2)(A).

<sup>31</sup> *Id.* at § 20.

<sup>32</sup> Ltr. from Congressman Christopher Shays and Twenty-Two Other Republican H. Members to Majority Leader Tom DeLay (Sept. 22, 2005) (on file with *Animal L.*).

<sup>33</sup> H.R. 3824 was introduced on Sept. 19, 2005 and voted on Sept. 29, 2005. See H.R. 3824, 109th Cong. (Sept. 29, 2005) (as introduced).

<sup>34</sup> 151 Cong. Rec. H8578 (daily ed. Sept. 29, 2005).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at H8582.

regarding the safety of all animals. As co-chairs of the Congressional Friends of Animals Caucus, Congressman Lantos and I will continue to educate lawmakers about the importance of animal welfare initiatives at all levels.

