

Legal Roundup

In early August an Indiana man was sentenced to 3 years in prison for selling a cougar and an Asian leopard, animals protected by the federal Endangered Species Act of 1973. The case marked the first time the act has been enforced with a jail sentence and hopefully indicates that the courts are beginning to take more seriously the protection of these animals.

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HSUS has intervened as amicus curiae (friend of the court) in a case before the U.S. Supreme Court in an effort to reinstate the U.S. Wild and Free-Roaming Horse and Burro Act of 1971, declared unconstitutional by a lower court (See *Spring, 1975. issue of The Humane Society News*).

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The Supreme Court of Florida has granted HSUS's petition to enter a case that will decide whether the use of live rabbits as lures in the training of racing dogs is banned by the state's anti-cruelty statute. A lower state court upheld the use of live rabbits on grounds of economic necessity, concluding that the only effective way to train a racing dog is by use of live lures. The Florida anti-cruelty statutes ban only "unnecessary" cruelty.

In its petition, HSUS attacked this principle as a warped and erroneous application of Florida's anti-cruelty statute and warned the state supreme court that the use of economic necessity as a legal justification for cruelty knows no limits. "If the law tolerates cruelty because it is 'necessary' in the training of exhibitionary animals, it may have to tolerate cruelty in the exhibition itself, as a box office 'necessity' to draw fans," HSUS warned. HSUS will soon file a brief on the merits in support of the Florida attorney general, who seeks to prosecute the dog trainers.

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The State of Alabama recently enacted a revised anti-cruelty law that raised the fine upon conviction from a maximum of \$50 to a maximum of \$500, in addition to the possibility of a 3-month jail sentence (Alabama, S-132, 8/13/75).

The Civil Aeronautics Board (CAB) finally began hearings on Sept. 30 that should result in regulations to improve the standards for handling animals shipped by air transportation. The hearings involve new tariff proposals by all major U.S. airlines, whose primary interests do not include a concern for the welfare of the animals being shipped, plus a number of other parties, some of which are concerned solely with the commercial aspects of animals as a product. Several animal welfare organizations, including HSUS, which have as their sole concern the interest of the animals in transit, will also participate.

In December, 1973, HSUS petitioned CAB to declare as a matter of policy that air shipments of live animals be given priority over all other shipments except air mail, air express, and critically needed medical supplies. The issues presented in that petition have been made a part of the broad tariff case now set for hearing.

HSUS believes that if animals cannot be shipped humanely, they should not be shipped at all.

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At the invitation of the House Committee on Agriculture, Guy R. Hodge, HSUS director of research and data services, testified at September hearings on H.R. 5808 (Foley, D-Wash.), in connection with the bill's provisions that would ban dog fighting in the United States.

In this testimony, HSUS urged the following key changes in the bill:

1. Enforcement under the Criminal Code rather than regulation by the Dept. of Agriculture.
2. Inclusion of a clear statement establishing as a matter of public policy the fact that dog fighting is cruel and inhumane, is repugnant to ordinary decency, and is contrary to the well-established public policy of the United States.
3. Prohibiting the breeding and shipment of fighting dogs.
4. Prohibiting the shipment of dog fight equipment.
5. Prohibiting the renting or making available of a site for dog fighting.
6. Prohibiting attendance at a dog fight.
7. Inclusion in the prohibited activity of *any* dog fight, even though it is solely for training purposes.
8. Authorization to confiscate dogs, pit equipment, and any transport vehicles.
9. Inclusion in the bill that a second conviction will constitute a felony.

H.R. 5808 also concerns itself with methods of transportation of all animals in commerce. Hodge testified that HSUS's experience indicates that airline and truck transportation are the least regulated and most problematic of all methods of moving animals. Losses of livestock transported by truck are extremely high, as shown in studies by the Council for Livestock Protection. All of these losses are caused primarily by carelessness of approximately 20% of the truckers.

He also expressed hope that H.R. 5808 could be expanded to include protection for guard dogs and concern itself with problems surrounding the disposition of surplus zoo animals, which are frequently sold to game farms, as recently documented in the CBS television program "The Guns of Autumn."

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Increasing pressure on the federal government to enforce the Wild and Free-Roaming Horse and Burro Act has resulted in the conviction of a Nevada man on a charge of violating the act.

Joe Edward VanRoy of Minden, Nev., was fined \$500 for violating the provision of the law that prohibits the capture, branding, harassment, or death of wild horses. VanRoy was charged with causing the death of a colt in the course of illegally rounding up a band of wild horses.

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Of further note in the area of new legislation pending in Congress are the following bills:

H.R. 8824, (Minish, D-N.J.)—to direct the Dept. of Defense to develop new research methods for the purpose of eliminating any need to use live animals in chemical, biological, or radioactive experimentation. Nine similar bills have been introduced in the House and Senate.

S. 811 (Tunney, D-Calif.)—amending the Horse Protection Act of 1970 to outlaw the soring of all show horses. Similar legislation was passed by the Senate last year but died in the House. Soring of Tennessee walking horses is already outlawed.

Finally, several bills have been introduced in both the Senate and the House to ban the use of traps, especially the steel jaw trap, on all federal lands and prohibit the shipment or sale of traps in interstate commerce. These bills include S. 1223 (Bayh, D-Ind.), S. 1602 (Mathias, R-Md.), S. 1830 (Williams, D-N.J.), and H.R. 66 (Glenn Anderson, D-Calif.).