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HORSE SORING LEGISLATION

John R. Kowalczyk*

In December of 1970 Congress enacted Public Law 91-540, entitled "Horse Protection Act of 1970,"¹ This federal law, the most comprehensive law on soring to be found at any legislative level in the country today, is aimed at stopping the practice of soring the forelegs of horses to affect their gait as they perform in the show ring. The legislative history terms soring as inhumane and torturous as a method of "training" horses to perform their gaits in certain ways. The same manner of gait can be induced by kind and patient trainers, but some horse handlers choose soring as a quicker method, with little concern for the cruelty inflicted upon the horses. Paramount to this article is the premise that all cruelty is to be avoided, and that kindness and gentleness should pervade the attitudes and practices of horse trainers everywhere.

The federal statute mentioned above is good, although limited in its scope. Apparently the Congress

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felt that it had the constitutional power only to prohibit soring of horses that travel in interstate commerce. The purpose of this article is not to challenge the fact that the federal law has a limited effect. Rather, the purpose is to assist the states to extend such prohibitions to the local level - where shipment in interstate commerce does not apply - and therefore into the areas where state legislatures may move without fear of conflict with federal law.

The Horse Protection Act of 1970 centers around the horse show itself. This is the most logical place to begin, for there the effects of soring are demonstrated in full public view. Three states, Kentucky, Tennessee, and Virginia² also have laws that prohibit exhibiting sored horses at horse shows. In Kentucky, soring is punishable by fines of \$10 to \$100, imprisonment for 10 days, or both. In Virginia, a violator can be fined up to \$500, be imprisoned for up to six months, or both. Two other states, Maryland and New York³ have laws that prohibit injuring a horse that engages in a "competitive exhibition of skill, breed, or stamina." In both of these states, the offense is a felony, and the offender can receive a sentence of up to three

years imprisonment. The soring of horses in the other forty-five states and in the District of Columbia is prohibited only by general anti-cruelty statutes, most of which contain the words "torture" or "injure" in their listing of prohibited inhumane acts. The general anti-cruelty statutes of these forty-six jurisdictions, together with the prescribed penalties, are listed in the appendix to this article.

In constructing a model law to prohibit the soring of horses, for use at the state and local level, several considerations must be made. First, the state law should not enter the area where interstate commerce laws apply. Secondly, gentleness and kindness should be fostered, as has already been mentioned. Thirdly, a definition of "soring" is necessary. Finally, a decision should be made as to whether the prohibition can be extended from the public horse show violations to include all private acts of soring as well. It seems that the tenor of public feeling would allow this extension. Many people are presently attempting to put more teeth into anti-cruelty statutes and to improve the private citizen's treatment of his domestic animals. Consideration should be given to inspection and

investigation agencies already present in the state and to the nature of agency that should be responsible for the enforcement of soring laws.

With these considerations in mind, the following is offered as a model soring statute. The several states with no act on soring, could adopt the law to satisfy their local needs.

Be it enacted by the [Legislature] of the State of (Name):

Sec. 1. This act shall be cited as the [name of state] Soring Act of [Year].

Sec. 2. (a) A horse shall be considered to be sored if, for the purpose of affecting its gait, or for the purpose of torturing it or of treating it cruelly, or for any other non-medicinal purpose --

1) a blistering agent has been applied internally or externally to any of the legs, ankles, feet, or other parts of the horse; or

2) burns, cuts, or lacerations have been inflicted on the horse; or

3) a chemical agent, or tacks or nails have been used on the horse; or

4) any other cruel or inhumane method or device have been used on the horse, including, but not limited to, chains or boots;

which actions may reasonably be expected--

A) to result in physical pain to the horse when walking, trotting, or otherwise moving; or

B) to cause extreme physical distress to the horse; or

C) to cause inflammation.

(b) For the purposes of this Act, "person" shall mean any individual, firm, corporation, partnership, association or other legal entity and shall further include any social, business, educational, professional, religious, civic or other group.

(c) For purposes of this Act, "horse show" shall mean any show, rodeo, competition, exhibition, or other similar event in which one or more horses perform before an audience.

Sec. 3. It shall be unlawful in this state for--

1) any person to sore a horse;

2) any person to sell a sores horse to another person without informing the buyer of such sores condition;

3) any person to exhibit a sores horse in a horse show, or to compete using a sores horse in a horse show for the purpose of winning any kind of reward or prize, including, but not limited to, money, trophies, and ribbons;

4) any official of any horse show to knowingly allow any sores horse to participate in any way, in any event of that horse show.

Sec. 4. The officials of any horse show held in this state shall--

- 1) inspect each horse exhibited in or participating in any class or event of that horse show;
- 2) keep accurate records of all such inspections for a period of ten (10) years thereafter;
- 3) inform the (chief law enforcement officer) of the county or city in which that horse show is being held of any horse found in such inspection to be in a sores condition;
- 4) engage a veterinarian to examine, treat, and care for any horse found in such inspection to be in a sores condition, at the expense of the owner of such sores horse; and
- 5) allow any agent or representative of [name of appropriate state agency, board, commission, or department] to inspect the horses in subsection 1) of the SECTION, and to inspect and copy the records made and kept under subsection 2 of this SECTION.

Sec. 5. Whether or not they are or have been officials of any horse show held in this state, any person who is a citizen of this state and becomes aware of any violation of this Act, may inform the [chief law enforcement officer] of the county or city in which the violation occurs.

Sec. 6. After being informed of any violation of this Act that occurred in his county or city in this state, the [chief law enforcement officer] of such county or city shall--

- 1) inform [name of appropriate state agency, board, commission, or department] by giving

it all the information he has concerning such violation;

2) engage a veterinarian to examine, treat, and care for any horse involved in such violation, at the expense of the owner of such horse, if such action has not already been taken under subsection 4) of SECTION 3 of this Act; and

3) seize and preserve the custody of any horse involved in such violation, if he deems such procedures necessary to the health and safety of such horse, or if he foresees that such horse may be removed from his county or city of jurisdiction prior to a final determination regarding such violation.

Sec. 7. The [chief of the appropriate state agency, board, commission, or department] may

1) make any rules and regulations regarding the agents or representatives of his [agency, board, commission, or department], concerning their inspections of horse shows and horse show records and their investigations of alleged violations of this Act;

2) conduct hearings regarding such alleged violations;

3) impose a fine of one thousand dollars (\$1,000) for any violation of this Act; and

4) prosecute such alleged violations of this Act in the [name of court] of the county or city in this state in which such violation allegedly occurred, if the alleged violator refuses to pay the fine imposed under subsection 3) of this SECTION.

APPENDIX

The following is a list of the federal and state laws that must presently be used to combat the practice of horse soring, with the statutory authority and maximum penalty for violation, as of May, 1971.

*United States, Public Law 91-540, 84 Stat. 1404, \$1000.

Alabama, Code of Ala., Tit. 3, §11, \$50.

Alaska, Alaska Statutes, §11.40.480, 10-30 days or \$5-50.

Arizona, A.R.S. §13-951, misdemeanor.

Arkansas, 4 Ark. Stat. 1947 Ann. 1964 Rplcmt. §41-409, misdemeanor.

California, West's Ann. Penal Code §597, misdemeanor.

Colorado, 3 Colo. Rev. Stat. 1963 §40-20-1, 1 yr or \$10-250 or both.

Connecticut, C.G.S.A. §53-247, 1 yr or \$250 or both.

Delaware, 11 Del. C. §342, \$25.

District of Columbia, D.C.C.E. §22-801, 1 yr or \$50 or both.

Florida, F.S.A. §828.12, 6 mo. or \$100.

Georgia, Ga. Code Ann. §26-2802, misdemeanor.

Hawaii, 7 Hawaii Rev. Stat. §722-2, misdemeanor.

Idaho, 4 Idaho Code §18-2102, misdemeanor.

Illinois, S.H.A. ch. 8, §320, \$500.

Indiana, Burns Ind. Stat. Ann. 1956 Rplcmt. §10-205, \$200 and 60 days or \$200.

Iowa, 55 Iowa Code Ann. §717.3, 30 days or \$100.

Kansas, K.S.A. 21-4310, 4502, 4503, 6 mo. or \$1000.

*Kentucky, 7 Baldw. Ky. Rev. Stat. Ann. 436.185, \$10-100 or 10 days or both.

Louisiana, LSA-R.S. 14:102, \$100 or 90 days or both.

Maine, 17 M.R.S.A. §1901, \$50-500 or 11 mo. or both.

*Maryland, 3 Ann. Code of Md. 1957 Art. 27, §61, 1-3 yrs.

Massachusetts, 9A Ann. Laws of Mass. C.272, §77, 1 yr or \$500 or both.

Michigan, 24 Mich. Stat. Ann. §28.161, 3 mo or \$100 or both.

Minnesota, M.S.A. §346.21, misdemeanor.

- Mississippi, 2A Miss. Code 1942 Ann. §2067, misdemeanor.
- Missouri, V.A.M.S. §563.670, misdemeanor.
- Montana, Sec. 94-1201, Repl. Vol. 8, Revised Codes of Montana, 1947, misdemeanor.
- Nebraska, Reissue Revised Statutes of 1943 §28-554, §5-50.
- Nevada, NRS 574-100, misdemeanor.
- New Hampshire, RSA 575.1, \$200 or 1 yr or both.
- New Jersey, N.J.S.A. 4:22-17, 4:22-26, \$250 or 6 mo. or both.
- New Mexico, 6 N.M. Stat. 1953 §40A-18-1, less than 6 mo.
- *New York, McKinney's Agriculture and Markets Law §361 up to 3 yrs.
- North Carolina, LB Gen. Stat. of N.C. §14-360, \$500 or 6 mo. or both.
- North Dakota, 6 N.D. Century Code 31-21-06, misdemeanor.
- Ohio, Page's Ohio Rev. Code Ann. §§959.13, 959-99E, §10-200 or 90 days or both.
- Oklahoma, 21 Okl. Stat. Ann. §1685, 5 yrs or \$500.
- Oregon, ORS §167.740, 60 days or \$100 or both.
- Pennsylvania, 18 P.S. §4942, \$100.
- Rhode Island, 1 Gen. Laws of R.I. 1956, §4-1-2, 11 mo. or \$250 or both.
- South Carolina, 1 Code of Laws of So. Car. 1962, §6-4, 30 days or \$100.
- South Dakota, SDCL §§40-1-2, 40-1-15, 30 days or \$100 or both.
- *Tennessee, 7 Tenn. Code Ann. §§39-420 to 422, misdemeanor.
- Texas, Vernon's Ann. P.C. art. 1374, \$200.
- Utah, 8 Utah Code Ann. 1953 §76-5-1-, 3 mo or \$100 or both.
- Vermont, 13 V.S.A. §403, 1 yr or \$200 or both;
Proposed Criminal Code of Vermont §§2415, 4003, 4005, 1-10 yrs or \$1000.
- Virginia, 4 Code of Va. 1950 §18.1-216.1, \$500 or 6 mo or both.
- Washington, RCWA 16.52.070, 16.52.165, \$150 or 60 days or both.
- West Virginia, 17 W. Va. Code §61-8-20, \$5-100 and 6 mo or \$5-100.
- Wisconsin, W.S.A. §947.10, \$500 or 1 yr or both.

Wyoming, 4 Wyo. Stat. 1957 §11-546, 1 yr or \$10-100 or both.

* Those jurisdictions marked by an asterisk have been mentioned in the COMMENT. These six are the only jurisdictions that prohibit soring by more than mere general anti-cruelty statutes. This list represents a search through the Animal and Cruelty to Animal statutes of the jurisdictions, but not a search through their penal statutes for the penalties for a misdemeanor offense. Where the Animal or Cruelty to Animal statutes contained a specific penalty, such has been noted in the list.

FOOTNOTES

1. The text of this federal law can be found at page 6102 of the United States Code, Congressional and Administrative News, 91st Congress, 2nd Session. The statute's legislative history can be found at page 6246 of the same.
- 2.3. Consult the list of statutes at the end of this article for the specific citations to these state laws.