

111th CONGRESS

1st Session

S. 1579

To amend the Wild Free-Roaming Horses and Burros Act to improve the management and long-term health of wild free-roaming horses and burros, and for other purposes.

IN THE SENATE OF THE UNITED STATES

August 5, 2009

Mr. REID (for Mr. BYRD) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Wild Free-Roaming Horses and Burros Act to improve the management and long-term health of wild free-roaming horses and burros, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Restore Our American Mustangs Act'.

SEC. 2. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Act of December 15, 1971 (commonly known as the 'Wild Free-Roaming Horses and Burros Act'; 16 U.S.C. 1331 et seq.).

SEC. 3. POLICY.

The first section is amended by striking 'in the area where presently found, as'.

SEC. 4. DEFINITIONS.

Section 2 (16 U.S.C. 1332) is amended--

(1) in paragraph (b), by inserting 'born or present' after 'unclaimed horses and burros';

(2) in paragraph (c), by striking 'which does not exceed their known territorial limits,';

(3) in paragraph (d)--

(A) by inserting 'and any associated foals' after 'his mares'; and

(B) by striking 'and' after the semicolon;

(4) in paragraph (e), by striking the period and inserting a semicolon;

(5) in paragraph (f)--

(A) by striking '(1) which' and all that follows through '(2)';

(B) by inserting ', in accordance with section 3(d),' after 'from an area'; and

(C) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following:

'(g) 'thriving natural ecological balance' means a condition that protects ecosystem health, the ecological processes that sustain ecosystem function and a diversity of life forms, including those species listed under the Endangered Species Act of 1973, and further ensures that wild horses and burros, livestock and wildlife species are given fair consideration in the allocation of resources on those lands where said species are authorized or managed consistent with the requirements of the Federal Land Policy and Management Act of 1976 (Public Law 94-579) and other applicable law; and

'(h) 'fatally injured or terminally ill' means an animal exhibiting one or more of the following:

'(1) A hopeless prognosis for life.

'(2) A chronic or incurable disease, injury, lameness, or serious physical defect (including severe tooth loss or wear, club foot, and other severe congenital abnormalities).

'(3) A condition requiring continuous treatment for the relief of pain and suffering in a domestic setting.

'(4) An acute or chronic illness, injury, physical condition or lameness that would preclude an acceptable quality of life for the foreseeable future.'

SEC. 5. INVENTORY AND DETERMINATIONS.

(a) Section 3(a) (16 U.S.C. 1333(a)) is amended as follows:

` (2) Develop a policy and standards, with public involvement, for setting consistent, appropriate management levels on public lands, based on scientifically sound methodologies.

` (3) Provide a public process, including a period for notice and comment, for finalizing appropriate management level standards.

` (4) Publish and distribute these standards to each field office so that the methodology for estimating population and determining appropriate management levels is consistent across public lands.

` (5) Train Federal personnel on the use of these standard techniques to estimate population and determine appropriate management levels.'.

(4) By striking ` shall consult with' and inserting the following:

` (6) Develop and finalize the standards in consultation with--'.

(5)(A) By inserting ` (A)' before ` the United States Fish'.

(B) By inserting ` (B)' before ` wildlife agencies'.

(C) By striking ` wherein' and inserting ` where'.

(D) By striking ` such individuals' and inserting ` (C) individuals'.

(E) By striking ` such other individuals' and inserting ` (D) individuals'.

(F) By striking ` he' and inserting ` the Secretary'.

(G) By inserting ` to' after ` determines'.

(6) In subparagraphs (A) through (C) of paragraph (6) (as so designated), by striking each comma and inserting a semicolon.

(7) In subparagraphs (A) through (D) of paragraph (6) (as so designated), by moving the margins of such subparagraphs 4 ems to the right.

(8) After paragraph (6) (as so designated), by inserting the following:

` (7) Identify new, appropriate rangeland for wild free-roaming horses and burros, including use of land acquisitions, exchanges, conservation easements, voluntary grazing buyouts, and agreements with private landowners to allow for the federally supervised protection of wild horses and burros on private lands, except that the Secretary shall assess the effects of new range for wild free-roaming horses and burros on rangeland health, riparian zones, water quality, soil compaction, seed bed disturbance, native wildlife, and endangered or threatened species and transmit the results of the assessment to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

` (8) Establish sanctuaries or exclusive use areas, except that the Secretary shall assess the effects of sanctuaries or exclusive use areas for wild free-roaming horses and burros on rangeland health, riparian zones, water quality, soil compaction, seed bed disturbance, native wildlife and endangered or threatened species and transmit the results of the assessment to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

` (9) In identifying or designating any new rangeland, or establishing any sanctuary or exclusive use area for wild free-roaming horses and burros, the Secretary of the Interior and the Secretary of Agriculture shall take into account and avoid any potential conflicts with wind, solar, geothermal, oil, natural gas, energy transmission, and mineral resources potential of the lands affected by the identification, designation, or establishment.

` (10) Research, develop, and implement enhanced fertility control for mares, stallions, or both, such as surgical or immunocontraception sterilization or other safe, humane, and effective methods of fertility control.'.

(c) In subsection (b) of section 3, by striking ` (2) Where' and inserting ` (d) If'.

(d) In subsection (d) (as so designated) of section 3--

(1) by striking ` determines' and all that follows through ` horses and burros to be' in subparagraph (B) and inserting ` has exhausted all practicable options for maintaining a thriving natural ecological balance on the range, the Secretary may provide that wild free-roaming horses and burros are';

(2) by striking ` for which he determines' the first place it appears and inserting ` so long as the Secretary has determined';

(3) by striking ` and for which he determines he can assure' and inserting ` and the Secretary can ensure';

(4) by striking ` (including' and all that follows through ` That, not' and inserting the following: ` by requiring that--

` (1) no';

(5) in paragraph (1) (as so designated)--

(A) by striking ` animals' the first two places it appears and inserting ` wild free-roaming horses and burros';

(B) by striking ` such' the first place it appears and inserting ` the'; and

(C) by striking ` and' after the semicolon and adding the following:

` (2) each individual adopter shall execute an appropriate attestation, pursuant to section 1001 of title 18, United States Code, affirming that adopted animals or their remains shall not be sold or transferred for consideration for processing into commercial products; and

` (3) wild free-roaming horses and burros may not be contained in corrals or short-term holding facilities for more than 6 months while awaiting disposition.'; and

(6) by striking subparagraph (C) and paragraph (3).

(e) Redesignate subsection (c) of section 3 as subsection (e) and in such subsection--

(1) by striking `Where excess animals have' and inserting `When a wild free-roaming horse or burro has';

(2) by striking `a period of';

(3) by striking `is authorized' and inserting `shall,';

(4) by inserting a comma after `transferee';

(5) by striking `to' before `grant';

(6) by striking `title to not more than four animals to'; and

(7) by striking `at the end of the one-year period' and inserting `title to that animal'.

(f) Redesignate subsection (d) of section 3 as subsection (f) and in such subsection--

(1) by striking `Wild' and inserting `(1) Except as provided for in paragraph (2), wild';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) in subparagraph (A) (as so redesignated), by striking `(c) except for the limitation of subsection (c)(1)' and inserting `(e)';

(4) in subparagraph (C) (as so redesignated), by striking `(b)' and inserting `(h)';

(5) in subparagraph (D) (as so redesignated), by striking `; or' and inserting a period; and

(6) in paragraph (5), by striking `(5)' and all that follows through `burro' and inserting the following:

`(2) No animal ever covered under this Act'.

(g) By inserting after section 3(f) (as so redesignated) the following:

`(g) Not later than one year after the date of enactment of this subsection, for the purposes of carrying out a successful wild free-roaming horse and burro adoption program the Secretary shall--

`(1) implement creative and more aggressive marketing strategies for the adoption program, including the use of the internet or other media to showcase horses and the adoption program;

`(2) explore public outreach opportunities, including agreements with local and State organizations that are using horses for rehabilitation, therapy, or prisoner programs;

`(3) provide resources to properly screen and train potential adopters;

`(4) conduct tours of Bureau of Land Management facilities for interested parties;

`(5) develop volunteer mentor and compliance check programs for assisting the agency in facilitating successful adoptions;

`(6) develop a program through which potential adopters may be offered an economic incentive for successful completion of the adoption process; and

`(7) take any and all other actions that the Secretary determines to be necessary and useful towards expanding the wild horse and burro adoption program.

(h) The Secretary may not destroy or authorize the destruction of wild free-roaming horses or burros unless the Secretary--

`(1) determines that the wild free-roaming horse or burro is terminally ill or fatally injured; and

`(2) ensures that the terminally ill or fatally injured wild free-roaming horse or burro will be destroyed in the most humane manner.

(i) If the immediate health or safety of wild free-roaming horses or burros is threatened, such as in severe drought conditions, the Secretary may temporarily remove animals from the range.

(j) The Secretary may remove from the range wild free-roaming horses and burros determined to be a threat to the health and well being of native plant or wildlife species.

(k) Except in cases of removal under subsection (d), (i), or (j), if the Secretary removes wild free-roaming horses or burros from an area, the Secretary shall provide a public notice on the Website of the Bureau of Land Management 30 days prior to the planned removal.

(l) The Secretary shall--

`(1) track the number of wild free-roaming horses and burros injured or killed during gathering or holding in a centralized database system;

`(2) determine what information on the treatment of gathered wild free-roaming horses and burros in holding and adopted wild free-roaming horses and burros could be provided to the public to help inform the public about the treatment of wild free-roaming horses and burros; and

`(3) ensure that such information is easily accessible on the Website of the Bureau of Land Management.'.

(h) By striking subsection (e) (relating to sale of excess animals).

SEC. 6. PRIVATE MAINTENANCE.

Section 4 (16 U.S.C. 1334) is amended--

(1) by striking `animals removed' and inserting `animals returned to public land'; and

(2) by inserting `pursuant to section 3(h)' after `agents of the Secretary'.

SEC. 7. COOPERATIVE AGREEMENTS.

Section 6 (16 U.S.C. 1336) is amended by inserting `and other private entities' after `landowners'.

SEC. 8. JOINT ADVISORY BOARD.

Section 7 (16 U.S.C. 1337) is amended--

- (1) by striking `nine' and inserting `12';
- (2) by striking `Governments' and all that follows `management.' and inserting `Governments and shall include three representatives of the livestock industry; three representatives of the environmental community; three representatives of the animal protection community; and three scientists with expertise in wildlife management, animal husbandry, or natural resource management.'; and
- (3) by adding at the end the following new sentence: `Nomination of members of the board shall be conducted by public notice and comment in accordance with the Federal Advisory Committee Act (5 U.S.C. appendix) and shall be for a term of four years. No individual shall serve more than two consecutive terms.'

SEC. 9. CRIMINAL PROVISIONS.

Section 8 (16 U.S.C. 1338) is amended--

- (1) by striking `Any person who' and inserting `(a) Any person who'; and
- (2) in paragraph (4) of subsection (a) (as so designated)--
 - (A) by striking `except as provided in section 3(e),';
 - (B) by inserting `, transports for processing,' after `processes';
 - (C) by striking `the remains of a' and inserting `a live or deceased'; and
 - (D) by inserting `for consideration' after `burro'.

SEC. 10. LIMITATION OF AUTHORITY.

Strike section 10 (16 U.S.C. 1339) and redesignate section 11 as section 10.

SEC. 11. REPORTS.

Section 10 (as so redesignated by section 10 of this Act) is amended as follows:

- (1) By striking `After the expiration' and all that follows through `thereafter' and inserting `(a)(1) Not later than one year after the date of enactment of this subsection and annually thereafter'.
- (2) By striking `will submit to Congress a joint report' and inserting `shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a joint report'.
- (3) By striking `he' and inserting `the Secretaries'.
- (4) By inserting after subsection (a)(1) (as so designated) the following:

(2) The report shall also contain the following--

- (A) the number of acres managed by the Bureau of Land Management and the USDA Forest Service for wild free-roaming horses and burros;
- (B) the appropriate management levels on public rangelands;
- (C) a description of the methods used to determine the appropriate management levels and whether it was applied consistently across the agency;
- (D) the number of wild free-roaming horses and burros on public lands;
- (E) a description of the methods used to determine the wild free-roaming horse and burro population;
- (F) any land acquisitions, exchanges, conservation easements, and voluntary grazing buyouts that the Secretary has acquired or pursued for wild free-roaming horses and burros;
- (G) any sanctuaries or exclusive use areas established for wild free-roaming horses and burros;
- (H) programs established for fertility control research, development, and management level implementation;
- (I) the extent to which fertility control is being used by the Secretary to control the population of wild free-roaming horses and burros;
- (J) the percentage of the Bureau of Land Management budget devoted to contraception annually;
- (K) the ratio of animals the agency has contracepted and put back on the range; and
- (L) which herds have been administered contraception and with what results.

(3) Each report submitted under paragraph (2) shall be made available to the public on the Website of the Bureau of Land Management'.

- (5) By inserting `(b)' before `The Secretary of the Interior'.

END