

Enact S. 1779 & H.R. 3931 – the Downed Animal Protection Act

The Downed Animal Protection Act (S. 1779 / H.R. 3931) prohibits USDA inspectors at slaughter facilities from approving meat from non-ambulatory livestock for human consumption and requires their humane euthanasia. This legislation, introduced by Sen. Daniel Akaka (D-HI) and Reps. Gary Ackerman (D-NY) and Steve LaTourette (R-OH), would encourage those handling livestock to treat them with greater care to prevent them from getting sick or injured, and it would discourage mishandling of animals who do become non-ambulatory. In 2001, the Senate and the House each approved provisions, as part of their farm bills, requiring humane euthanasia of downed animals, but this language was removed in conference. The Senate approved an Akaka amendment to the FY 04 Agriculture Appropriations bill in November 2003 barring USDA approval of meat from downers for human food, but that provision was also dropped in conference. The Senate approved an identical amendment to the FY 06 Agriculture Appropriations bill in September that now awaits final conference resolution.

On December 30, 2003, USDA announced a series of policy reforms in the wake of the discovery of a “mad cow” in Washington State. Chief among those changes – as requested by The HSUS – was a ban on continued use of downed cattle for human food. We commend the administrative ban and call on Congress to make it a matter of permanent law by enacting the Downed Animal Protection Act. The legislation would also cover other livestock. Downed pigs, sheep, and other mammals are at heightened risk of transmitting disease to those who eat their meat, too, and the animal welfare concerns are the same regardless of species.

- *Downed animals suffer terribly.* Animals too sick or injured to stand or walk are often kicked, dragged with chains, prodded with electric shocks, and pushed by bulldozer in an effort to move them to slaughter. Downed animals may be left for days without food, water, or veterinary care as they await slaughter. There is no excuse for this unnecessary torment.
- *Meat from downed animals is more likely to be unfit for consumption.* All 6 identified cases of BSE (bovine spongiform encephalopathy or “mad cow disease”) in North America to date – a cow imported to Canada from the United Kingdom in 1993, a Canadian cow in May 2003, the Washington State cow in December 2003, two cows in Canada in January 2005, and the U.S. cow announced in June 2005 – have reportedly been downers. According to USDA’s Federal Register notice on January 12, 2004, “[S]urveillance data from European countries in which BSE has been detected indicate that non-ambulatory cattle are among the animals that have a greater incidence of BSE than other cattle” (citing, e.g., Swiss data showing a 49 to 58 times higher chance of finding BSE in downers than in cattle reported to veterinary authorities as BSE-suspect under passive surveillance). Downers are also at high risk for other transmissible diseases. An August 2003 USDA study found that downers had three times more deadly E. coli O157:H7 bacteria than other cattle. And data presented at a Livestock Conservation Institute meeting showed 14% of downed cows were Salmonella positive at time of slaughter, including one cow in the study who tested positive for Salmonella septicemia – a potentially fatal affliction that kills about 1,000 Americans each year -- yet passed inspection.
- *It’s very difficult to determine the reason an animal is non-ambulatory (illness, injury, or a combination).* Some argue that animals who are non-ambulatory because of injury should still be allowed into the food supply. But injury and illness are often interrelated – an animal may stumble and break a leg because of disease that causes weakness and disorientation. Of the BSE cases detected in Canada and the U.S. so far, at least 3 out of 6 were thought to be downed due to injuries. The 2003 BSE case in Washington State involved a cow who was identified by a USDA veterinarian as being downed because of calving injuries. The 1993 Canadian mad cow was identified as being downed due to a broken leg. And the most recent case in Canada involved a cow who slipped on ice and broke a leg. According to USDA, “Surveillance for BSE in Europe has also shown that the typical clinical signs associated with BSE cannot always be observed in non-ambulatory cattle infected with BSE because the signs of BSE often cannot be differentiated from the typical clinical signs of the many other diseases and conditions affecting non-ambulatory cattle.” In other words, inspectors can’t reliably sort out the reason(s) an animal became downed. USDA should uphold its stated definition of “non-ambulatory,” covering any cow unable to stand or walk regardless of the reason. A system that requires inspectors to distinguish downers who are injured vs. sick would be unworkable and reckless.
- *Surveillance for mad cow disease is best done at rendering plants and farms, not slaughter plants.* Before USDA announced its ban, only about 10% of downed animals at slaughter plants had been tested for BSE in 2003. USDA records from 1999-2001 indicated that 73% of downed animals passed inspection for human consumption, while just 27% were condemned. USDA records showed that many downers were approved with signs of gangrene, malignant cancer, pneumonia, and other serious illnesses. Rather than subjecting consumers to the risks of eating this meat in order to preserve a woefully inadequate testing regime, USDA wisely decided to stop relying on slaughter plants for surveillance of downers, and shift to BSE testing at rendering plants and on farms.

- **An effective BSE surveillance program must include “deadstock” at farms and rendering plants.** Downers are a subset of a much larger population known as the “4-D” (dead, dying, diseased, or down). In a January 2003 Federal Register notice, USDA estimated that 1 million livestock die on farms every year (with most sent to rendering plants). In short, there are five times as many “deadstock” as there are downers. So it is critically important to conduct surveillance at rendering plants and farms to detect BSE that may occur in all of these high-risk animals. That makes much more sense than relying on tests just of downers at slaughter plants.
- **High risk downed animals should be kept out of the food supply altogether, not just some of their body parts.** USDA decided to ban use of any downed cows in human food in part because “Under the current testing methods, which are conducted on sections of the brain or spinal cord, certain tissues of cattle infected with BSE...may contain BSE infectivity even though the diagnostic test does not show that the animal has the disease.” Recent research published in the journal *Science* concluded that BSE-causing prions may be found in animal tissues other than those considered high risk (spinal cord, brain, etc.).
- **Allowing some downers to enter the human food supply would undermine consumer confidence.** Most Americans had no idea that animals too sick or injured to stand and walk were being allowed into the food supply. When that fact came to light in December 2003, USDA’s prompt decision to ban all downers for human consumption reassured consumers and allowed the meat industry to retain much of its domestic market, which accounted for 90% of U.S. sales. Even before the media called attention to the issue, a September 2003 Zogby poll revealed that 77% of likely U.S. voters opposed using downers, and 81% were concerned that sending downed animals to slaughterhouses could put human consumers at risk. McDonald’s, Wendy’s, and Burger King had previously banned meat from downed animals, and the largest livestock markets in the nation (e.g., Empire Livestock in New York and Central Livestock that serves the entire Midwest) had endorsed the removal of downed animals from human food, citing animal welfare and food safety concerns.
- **Most ranchers and meat industry trade associations applauded the USDA ban when it was announced.** The National Cattlemen’s Beef Association and National Farmers Union were among the many industry groups that announced support for the downer ban following Secretary Veneman’s December 2003 decision. A spokesman for the Indiana Meat Packers and Processors Association said, “I wish it would have been done earlier. If there is any doubt about beef, I don’t think it should be put in the food system.” A Montana rancher agreed, “I think it’s a good thing that was put in place and it should have been done a long time ago.” Many Montana ranchers indicated they “want the ban expanded to keep downer meat out of the animal-feed chain as well.” The president of the Oregon Cattlemen’s Association said, “We don’t want downer cows. We know that’s not good for the industry. I would never allow a cow of mine to get in that position. It’s the responsibility of every other person in the beef business and dairy business to follow these practices.” A representative of the National Milk Producers Federation said the effect of the new rules on farmers will be “fairly minor,” except for unanswered questions about how and where testing for mad cow disease would be conducted. The director of the Iowa Beef Center noted that most major packing plants stopped accepting downers years ago. An official with the California Cattlemen’s Association explained that “[f]ew [producers], if any, haul downer animals to slaughter. It’s simply not a practice that our industry conducts.” An Iowan farmer stated, “I’ve never taken a downer cow to the meatpacking plant, and it’s not because of BSE or government regulations. Most producers wouldn’t take anything to the plant that they wouldn’t eat themselves.” And a cattle expert at Colorado State University noted, “Downer animals should be humanely euthanized at the farm because it is the right thing to do.” A dairy farmer in Washington State who used to sell downers for human consumption said, “It’s an absurd practice. Foolishness caused by maybe a certain amount of greed.” A January 2004 poll conducted by BEEF Cow-Calf Weekly found that 80% of respondents agreed with the downer ban. In endorsing the ban, the National Cattlemen’s Association noted, “Times do change.”
- **Unfortunately, some segments of industry have backpedaled, putting pressure on USDA to weaken the ban. But the public has voiced strong support.** Of approximately 22,000 public comments that USDA received on its downer policy (including from industry), more than 99% urged USDA to maintain and strengthen the downer ban, expanding it to cover other species and making the prohibition permanent. For analysis of the public comments, please see: http://files.hsus.org/web-files/PDF/2004_06_16_rept_USDA_comments.pdf.
- **The downer ban provides an incentive for producers to treat animals humanely and prevent livestock from going down.** Most producers already try to keep their livestock from getting sick or injured, and kill any who do become downers while they’re still on the farm. A study by a veterinarian with the California Department of Food and Agriculture determined the net value of a downed animal sent to slaughter was just \$28.70. According to USDA, before the ban, downers comprised just .4% - .8% of all cattle slaughtered annually in this country. The ban helps provide an additional incentive for producers and transporters to engage in responsible husbandry and handling practices, reducing that number to levels approaching zero. As Temple Grandin – advisor to the American Meat Institute and others in the meat industry – long ago explained in *Meat & Poultry Magazine*, “Ninety percent of all downers are preventable.”