

Fact Sheet

Enact the Downed Animal and Food Safety Protection Act – S. 394 / H.R. 661

The Downed Animal and Food Safety Protection Act (S. 394 / H.R. 661) prohibits USDA inspectors at slaughter plants from approving meat from non-ambulatory cattle, sheep, pigs, goats, and equines for human consumption and requires humane euthanasia of so-called “downers.” This legislation, introduced by Sen. Daniel Akaka (D-HI) and Reps. Gary Ackerman (D-NY) and Steve LaTourette (R-OH), would encourage those handling farm animals to treat them with greater care to prevent them from getting sick or injured, and discourage mishandling of animals who do become non-ambulatory. In 2001, the Senate and 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 Nov. 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 Sept. 2005 that was likewise removed in conference.

On Dec. 30, 2003, USDA announced a series of policy reforms in the wake of the discovery of a “mad cow” in Washington State just days earlier. Chief among those changes – as requested by The HSUS – was a ban on continued use of any downed cattle for human food. However, a 2006 report by USDA’s Office of Inspector General revealed major gaps in enforcement (29 downer cattle were slaughtered for human food at 2 out of 12 slaughter plants checked during a 10-month period; the IG noted the lack of documentation on these animals’ fitness for consumption and the use of a forklift to transport downed cattle). Unbeknownst to the public, USDA instructed its inspectors to circumvent the no-downer policy with a loophole that the agency then made official in its final BSE rule issued in July 2007. The loophole allows inspectors to reevaluate and approve for human food cattle who are able to walk when initially inspected but then keel over and cannot stand up again. **We call on Congress to close this loophole and comprehensively ban downed animals from our food supply by enacting the Downed Animal and Food Safety Protection Act.** The legislation would also cover other farm animals. Like downed cattle, non-ambulatory pigs, sheep, and other mammals may be at heightened risk of transmitting disease to consumers, and the animal welfare concerns are the same regardless of species.

Downed animals suffer terribly. As documented in our recent undercover investigation, animals too sick or injured to stand or walk are often kicked, dragged with chains, electrically shocked, and pushed by forklift or bulldozer in an effort to move them to slaughter. Downed animals may be left for days without food, water, or veterinary care. Even if “only” a broken leg is involved, dragging or otherwise forcibly moving an animal with a fracture is just as cruel, if not more so.

Meat from downed animals may be more likely to be unfit for consumption. At least 15 of the 19 identified cases of bovine spongiform encephalopathy (BSE or “mad cow disease”) in North America to date have reportedly been downers: a cow imported to Canada from the United Kingdom in 1993, a Canadian cow in May 2003, the Washington State cow in Dec. 2003, two cows in Canada in Jan. 2005, a cow from Texas announced in June 2005, a cow from Alabama in March 2006, and Canadian cows in April, July (two), and Aug. 2006, May 2007, and Feb., Aug., and Nov. 2008. (The only cases not identified as downers were a Canadian cow exhibiting “abnormal locomotion and posture” in Jan. 2006, a Canadian bull who was dying “after having experienced a loss of body condition” in Feb. 2007, a Canadian cow in Dec. 2007, and a Canadian cow in June 2008 whose downer status was unknown.) According to the Food and Drug Administration (FDA): “Experience has shown that nonambulatory disabled cattle...are the population at greatest risk for harboring BSE.” FDA cites European data showing a 49 to 58-time higher chance of finding BSE in downers than in cattle reported to veterinary authorities as BSE-suspect under passive surveillance. Downers may also be at higher risk for other transmissible diseases. An Aug. 2003 USDA-funded study found that downer dairy cows were 3 times more likely to harbor the potentially deadly *E. coli* O157:H7 bacteria than walking cull dairy cows. And data presented at an American Meat Institute conference suggests that 14% of downed cattle may be infected with *Salmonella* at time of slaughter, including one cow who tested positive for *Salmonella* septicemia – meaning she was in such a late stage of infection that the bacteria had invaded her bloodstream – yet she still passed inspection.

It’s very difficult to determine why an animal is non-ambulatory – whether due to illness, injury, or both. Some argue that animals who are non-ambulatory because of injury should 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. At least 3 of the documented cases of BSE in North America were identified as downers due to injury, not illness – the 2003 Washington State case was identified by a USDA veterinarian as non-ambulatory due to calving injuries, the 1993 Canadian case was identified as downed due to a broken leg, and one of the 2005 Canadian cases 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.” Inspectors can’t reliably determine why an animal became downed, nor whether that animal is “safe” for consumption. USDA should abandon its reckless and unworkable loophole and uphold its stated definition of “non-ambulatory,” covering any animal unable to stand or walk regardless of the reason.



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Surveillance for mad cow disease is best done at rendering plants and farms, not slaughter plants. Before USDA announced its ban, less than 10% of downed animals at slaughter plants had been tested for BSE in 2003. According to sample records provided by USDA of some plants from 1999 to 2001, perhaps 73% of non-ambulatory cattle passed inspection for human consumption, while only 27% were condemned. Many of those approved for food were apparently described simply as "injured." USDA records reportedly further showed that downers were approved with signs of gangrene, cancer, pneumonia, and other serious illnesses. Rather than subjecting consumers to the risks of eating meat from non-ambulatory cattle in order to conduct a woefully inadequate testing regime, surveillance of downers can and should be conducted at rendering plants and on farms. An effective BSE surveillance program must include "deadstock." Downers are a subset of a much larger population known as the "4-D" – dead, dying, diseased, or disabled – which USDA identifies as significant potential pathways for BSE transmission. Over 1 million cattle die on farms every year; there may be over 5 times as many "deadstock" as there are downers. A surveillance system that relied just on testing downers at slaughter plants would miss the rest of this high-risk population.

High-risk downed animals – not just some of their body parts – should be kept out of the food supply altogether. USDA decided to ban use of downed cattle in human food in part because "[u]nder 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." Research published in the *Proceedings of the National Academy of Sciences of the USA* and in the journal of the European Molecular Biology Organization suggests that BSE-causing prions may be found in animal muscle tissue.

Allowing some downers to enter the human food supply undermines consumer confidence. Most Americans had no idea that animals too sick or injured to stand and walk are allowed into the food supply. When that fact first came to light in Dec. 2003, USDA's promptly announced 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 Sept. 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 some of the largest livestock markets in the nation, including Empire Livestock in New York and Central Livestock that serves the entire Midwest, had endorsed the removal of downed animals from human food, citing both animal welfare and food safety concerns. USDA decided in 2000 to end the use of beef from downers in the National School Lunch Program (although this rule has obviously not been well-enforced, as shown by our investigation of the Hallmark/Westland company, which had been the #2 supplier of beef to the National School Lunch Program and other USDA commodity distribution programs).

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 Dec. 2003 decision. "I wish it would have been done earlier," said an Indiana Meat Packers and Processors Association spokesperson. "If there is any doubt about beef, I don't think it should be put in the food system." Echoed a Montana rancher, "I think it's a good thing that was put in place and it should have been done a long time ago." Indeed, 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 Iowa 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 Beef Association noted, "Times do change."

Though some segments of industry have backpedaled, pressuring USDA to weaken the ban, the public has voiced strong support. Of approximately 22,000 public comments that USDA received on its downer policy (including those 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.

A truly comprehensive downer ban will provide an incentive for producers to treat animals humanely and prevent them from becoming non-ambulatory. Responsible producers already work to keep animals from getting sick or injured, and euthanize 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 announced in Dec. 2003, downers comprised just 0.4-0.8% of all cattle slaughtered annually in this country. A bright-line ban will help provide an added incentive for producers and transporters to engage in responsible husbandry and handling practices, reducing that number to levels approaching zero. International expert Temple Grandin, Ph.D., advisor to the American Meat Institute and others in the meat industry, has noted that as many as 90% of all downer cases are preventable.