

# Horse Council Courier

The Horsemen's Council of Illinois (HCI) newsletter dedicated to promoting a healthy horse industry statewide through information and education.

## **East Coast/West Coast Experts Headline** Chicagoland Equestrian Lifestyle Expo November 19-20

Experts from the east and west coasts headline this year's Chicagoland Equestrian Lifestyle Expo and Holiday Market. From California come world-renowned veterinarian, speaker, author and father of "foal imprint training" Dr. Robert M. Miller, and trainer/motivator/communicator Charles Wilhelm. From the East Coast

come three-time Olympic coach Jane Savoie of Wellington, FL, and internationally known sports psychologist Ann S. Reilly, PhD, of McLean, VA. Also presenting is gaited riding's recognized authority Larry Whitesell, of Baxter, TN.

Chicagoland Equestrian Lifestyle Expo & Holiday Market is November 19-20 at the Lake County Fairgrounds

Expo Center located halfway between Chicago and Milwaukee (west of I-94) in Grayslake, IL. Expo is produced by Horsemen's Council of Illinois as part of its com-

mitment to equine education, and is sponsored by Purina Mills.

Expo also offers exceptional shopping for "All Things Equestrian" across the Expo Center's 65,000 square feet of heated indoor exhibit space. Hours are 10 a.m. to 7 p.m. Saturday and 10 a.m. to 5 p.m. Sunday.

Dr. Miller's revolutionary system of training newborn foals is now used all

over the world. He retired after 30 years in practice to devote his full time to teaching horse behavior and providing scientific reasons why natural horsemanship techniques

work in a non-technical, refreshingly easyto-understand way. At Expo, Dr. Miller will guide attendees through understanding the horse's mind and explain how to use that knowledge to solve horse problems.

Charles Wilhelm is known for his skills in communicating and motivating people as well as his natural abilities with the



Equestrian Lifestyle Expo AND Holiday Market

horse. He believes that "It's Never, Ever the Horse's Fault." His relaxed, warm and amusing character has made him a great favorite at clinics and expositions where

> attendees take home solid, practical knowledge, enabling them to be successful with their own horses - seeing results right away.

> Jane Savoie is an international competitor, author and highly entertaining speaker. As a member of the United States Equestrian Team (since 1991), she has represented the U.S. in competition in Germany, Holland, France, Belgium and Cana-

da. She returns to Expo with new presentation topics after being rated 11 on a scale of 1 to 10 by packed audiences enthused with her 2010 Expo presentations. Although a

Dr. Robert Miller, DVM

dressage coach and competitor, Savoie's approach actually crosses all breed and discipline lines.

Dr. Reilly has led the equestrian world in sport psychology training for more than 25 years. Through her applied work with riders, as well as athletes from all sports, she has developed the skills to assist riders

> in overcoming obstacles that have held them back from attaining peak performance in competition. In addition to her Expo presentations on winning the competition mind game and overcoming fears, Dr. Reilly will be available for private consultations.

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### **Inside This Issue**

## The Horsemen's Council of Illinois (HCI)

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## President's Corner —



## The Erudite Horseman

"The stable is a place of hoary tradition often in danger of intellectual stagnation."

I remember this adage oft quoted by my major professor throughout the study for my doctorate. At the time, I passed it off as one of those "favorite sayings" of an academic and went about my work. In the ensuing 30 years of working to educate myself, my students, horse owners, trainers, breeders, veterinarians, and others, I have come to believe that, for too many in our industry, no truer words have ever been spoken.

One of the fundamental signs of a true scholar, in any discipline, is the humbling realization that the more you learn, the more you understand how little you actually know. Learning a new or different or better way to do something requires an open mind. Now, I am not saying that there isn't a lot to be learned from good old "stable wisdom," but I am saying that our traditions must be able to stand up to the scrutiny of scientists, educators and scholars. Those who steadfastly choose tradition ("that's the way it's always been done") over education cannot move forward. This is a disservice to the welfare of our horses.

Many of the new age of horsemen (those practitioners of natural horsemanship or "horse whisperers", confess to originally being a traditionalist who knew it all and handled horses in the time-honored manner of the "horse breakers" of yesteryear. These master horsemen will often tell of their epiphanies – the moment when, or process through which they opened their minds to a new and more sensitive way of dealing with their horses. The

best among these practitioners will tell you that in order to best serve the horse, they had to let go of their ego. I am very aware of ego, and I am always trying to let it go – not only is it a difficult thing to shed, if you aren't vigilant, it comes back.

One of Horseman's Council of Illinois major missions is to promote the continued education of those who work with the horse, in whatever capacity. We sponsor two major educational events – one is coming up this month. I am excited to participate in the Equestrian Lifestyle Expo in Grayslake, IL and to interact with so many master educators in a wide variety of fields surrounding horses. I always come away from HCI educational events with new insights. Did you know how learning and training a horse are alike? With each you are never, ever finished. My personal goal is to learn one new thing as I take my last breath in this world. How about you?

We all invest in our horses. We make sure that they have adequate food, water, shelter; we invest in their health care, in their training, in tack and other objects designed to make our horses or our lives better. I would argue that the single best investment we can all make to enrich the lives of our horses and ourselves is education. I know that I still have a long way to go in the field of equine enlightenment; I invite you to join me on that journey. Open your mind, shed your ego and participate in every educational event that you can manage. Decide for yourself what makes sense for you and your horse and implement what you have learned. You and your horse will be better for it. Education is the best possible gift that you can give your horse – and yourself.



## Executive Director's Report -



The mornings are certainly getting cooler around the farm, the fire in the woodstove is feeling pretty good after doing chores, and we've already started to move hay out of the hay barn to the

feeders. Winter's on its way! Hope everyone's got enough feed put up to last 'em through. Looks like hay's gonna be in short supply come late winter and spring.

As the leaf colors begin to fade and show season winds down for yet another winter we look towards the prospect of the fall legislative veto session in Springfield and the furious game of hide the peanut that gets played between competing interests on all kinds of bills and proposed rules changes. Many of which have a direct effect on the way you keep and enjoy your horses.

Gaming seems to be the top priority this fall in many areas of the state. Slots at the tracks, or some other way to increase purses and participation at the tracks, is a priority for the horse racing segment of our industry, too, and in particular to all of us who support that industry in the way of feed production, veterinary and farrier services, truck and trailer sales and even to those of us who just enjoy seeing good horses run. Horse racing and wagering on horse races has been around since the first modernday horses arrived on this continent from

Spain and England. Since its early heyday, horse racing has been regulated, licensed and debated into near obscurity in Illinois. Purses have been declining for years and horses and horsemen seek greener pastures in neighboring states that take pride in a vibrant racing industry and the economic activity that surrounds it. The Governor apparently fails to see that, or possibly he actually wants limited or no horse racing in Illinois. Regardless of horse racing fate, we all need to do our part to remind everyone involved that there is still a large horse community in Illinois and an attack on one is an attack on us all.

Several new exemptions from state sales tax on fence and hay materials have been introduced that would apply to production agriculture. Whether your horses are considered livestock or pets will determine how they may apply to you. The state is looking under every stone right now for new revenue and how they classify your horse activities makes a big difference. Join me for a discussion on all the differences between treating horses as livestock or companion animals during Expo at the new Lake County Fairgrounds in Grayslake on November 19 – 20.

There are many proposed federal law and regulatory changes that deal with horses, too. From prohibitions on transportation and processing horses to estate taxes, regulations on migrant guest workers and several seemingly innocuous pieces of legislation that may have a huge impact on the future of horse ownership in the United States. Bills that warrant discussion will likely be considered sometime before the elections next year. You can tune in to see all the proposed changes through the legislation section of the HCI website.

In all the discussions, HCI will be there to represent you and keep you apprised of the activity – good and bad. If you haven't signed up to receive HCI's legislative updates yet, log onto Facebook and click "Join My List" from the Horsemen's Council page.

Membership renewal letters have been sent to all current HCI members. Your continuing support is really important to us. All of us recognize the value that membership in HCI – your statewide equestrian organization - brings to you and your equestrian lifestyle. Not the least of which is the member-automatic \$1,000,000 equine liability insurance, the timely information we provide on topics that you're interested in and the educational and networking opportunities you'll find at Horse Fair and Expo. Thanks for renewing your support today!

Stop by and visit with us at Expo. I look forward to seeing you there!

Frank Bowman

## New H-2B Wage Rule to be effective Nov. 30

On September 28, the Department of Labor (DOL) delayed the effective date of a new prevailing wage final rule for the H-2B program by 60 days. The wage rule was scheduled to go into effect on September 30, 2011. The new wage rule is now scheduled to go into effect on November 30, 2011.

The wage rule, in most instances, will increase the hourly wage that must be paid to all currently employed H-2B workers and American workers recruited in connection with an H-2B job application as well as future workers. More information can be found on the American Horse Council website www.horsecouncil.org/regulations/department-labor-moves-effective-

date-h-2b-wage-rule.

The H-2B program is used by members of the horse industry, principally horse trainers and owners who cannot find American workers to fill semi-skilled jobs at racetracks, horse shows, fairs and in similar non-agricultural activities.

DOL has issued the following guidance to H-2B employers:

Any employer who has received a supplemental H-2B prevailing wage determination in anticipation of the September 30, 2011 effective date is not required to pay, and the Department's Wage and Hour Division will not enforce, the wage provided in that supplemental prevailing wage de-

termination for any work performed beginning September 30, 2011 through November 29, 2011 by H-2B workers or U.S. workers recruited in connection with the H-2B application process. The employer is expected to continue to pay at least the prevailing wage as promised in the employer's labor certification (ETA Form 9142) for any work performed before November 30, 2011. However, employers who received a supplemental H-2B prevailing wage determination must pay at least that wage to any H- 2B worker and any U.S. worker recruited in connection with the labor certification for work performed on or after November 30, 2011.

### Safe Fencing for Horses

by: Kevin H. Kline, PhD, HCI Director

As new horse properties are built, and older properties are adapted for housing horses, safely fencing in these animals is a big concern. Horses tend to be housed near their owner, which means that the highest population density of horses is near the highest population centers for humans. Horse fencing must be safe for the animals and also provide a secure barrier such that horses cannot escape onto roadways or neighborhoods where they may pose a grave danger to passing motorists or pedestrians. Fencing for horse

properties should be designed to allow for easy management and movement of horses within the fenced perimeter, and also provide an aesthetically pleasing appearance for the property owner, boarders and neighbors. Planned animal use, type of horses to be enclosed, terrain, cost, durability and planned maintenance should also be considered before choosing the right fence for a particular horse operation. No single type of fencing may be suitable under all conditions for all horse properties, so some of the more common fence types will be discussed after reviewing some of the key features of safe horse fences.

#### Features of safe horse fencing

Fence height is an important aspect of horse fencing safety. Perimeter fencing for a horse property should be a minimum of 5 feet tall for most light breeds of horses and 6 feet tall for taller breeds or for horses that have shown a willingness to jump shorter fences. Interior fences separating pastures between compatible horses may be as low as 4 ½ feet high, but this may encourage horses to "ride down" the fence when reaching

over to the other side. Of course, fences designed specifically to enclose small ponies or miniature horses may be shorter than the previous height recommendations. A good rule of thumb for the height of a fence for small equines is that the top of the fence should be at the horse's eye level when the head is held in a natural upright position.

Visibility is one of the most important safety features of horse fencing. Horses are more likely to accidentally run into fences that have low visibility. This is why it is recommended that all types of wire fences have a top sight rail on which the horse may focus. This sight rail may be a board, nylon webbing, PCV rail, etc.

Strength of the fence is another important consideration; however, if a horse runs into any fence at full speed, it is likely to either wind up on the other side of the fence or be badly hurt if the fence is not highly visible. Horse owners with

multi-horse paddocks or pastures should pay particular attention to the strength and visibility of fences in high traffic areas such as near gates that horses move through frequently, near barns and locations where they are fed and watered.

Horse fences should also be smooth and forgiving along the inside edge nearest to the animals. Sharp edges from uneven joints, protruding nails or other fasteners, damaged boards or broken wires can badly injure horses as they move along the fence line.

Fencing material must not trap or entangle the horse. Horses are naturally claustrophobic and will panic when a foot, leg or head becomes trapped in a fence or gate, leading to potentially serious injury or escape from the enclosure.

Stallion paddocks should be doublefenced, with a lane between paddocks to discourage fighting between horses that would share a common fence line.

Stallion paddocks should also be double fenced when adjacent to mare paddocks to discourage the stallion from trying to enter the mare's enclosure.

#### Types of fences for horses

Wooden board fences are the most traditional type of horse fencing. These fences are most typically made of 3 – 4 horizontal planks of hardwood such as oak, 12 to 16 feet long, rough cut into 1 X 6 inch boards and nailed or lag screwed onto 5 inch diameter round posts that are 8 feet long with 3 feet set underground. The boards should be secured to the inside (horse side) of the fence so that the horse does not run into the fence post. The bottom board should be 10 - 12 inches above ground so that horses do not get their legs trapped beneath it. Board fences are most often painted white or black with an asphalt based paint. Usually the "black paint" used for horse fences is diluted asphalt driveway or roofing sealant. Advantages of board fences include good aesthetics, high visibility and good strength. Wooden board fences are excellent for

show and sale rings and make good stallion paddocks. Disadvantages include the fact that the initial cost is relatively high – usually \$1.50 - \$2.00 per running foot and the maintenance may be costly due to horses chewing on the wood, weathering, etc. Wooden fences must be inspected regularly for broken or damaged boards

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or protruding nails or screws that might injure horses.

Certain types of wire fencing may be safely used for horse enclosures if certain precautions are taken. The safest, but most expensive, type of wire horse fence is the v-mesh wire weave fence. The construction of wires in a closely spaced "V" pattern prevents hooves and legs from getting stuck in the fence, and may also provide some deterrence against predatory animals that may attempt to enter the enclosure if the wire is placed near the ground. However, it is recommended that the bottom wire should be raised 8-12 inches from the ground to avoid trapping a horse's foot and to avoid having horses "walk down" the fence by stepping on it. When a top sight board or vinyl tape is added to ensure good visibility, this type

of fence is extremely safe and secure for most types of horses. Although the price of this type of fence with a top sight board usually exceeds \$2.00 per running foot, the maintenance cost is usually lower than that of a wooden board fence.

Rectangular woven wire fences with a wire weave that is 2 inches wide by 4 inches high may be used in relatively low traffic areas of horse pastures. This type of fence requires less maintenance than a wooden board fence and costs less than a v-mesh wire weave fence,

but has openings large enough to entrap the hoof of a pony or small foal, and fewer wires per square foot, and thus is not as safe or strong as a v-mesh wire fence. Other styles of less expensive woven wire fencing with greater wire spacing is even less safe and strong and should only be used in areas with minimal horse population density where horses are unlikely to come into contact with the fence. Some of these fences may cost as little as \$1.00 per running foot, but safety is sacrificed to a certain degree. Once again, a top sight rail should be used to enable horses to focus on the fence line and avoid this type of fence.

High-Tensile wire may be used for horse fencing in some situations. At least 12.5 gauge smooth wire is recommended, and vinyl or plastic coated wire, although

more expensive, is much safer than uncoated high tensile wire. Advantages of this type of fence include a high breaking strength, thus horses are deterred from escaping their enclosure, and fence posts can be as far apart as 60 feet instead of the typical 12 - 16 feet spacing. Maintenance costs tend to be fairly low, but ratchet-type tighteners must be periodically adjusted to keep the correct tension in the wires and proper bracing of corner posts is critical. Due to the long distance between posts, top sight boards become impractical, so electrification of the wires or use of electrified tape along the top of the fence may be necessary, especially in high traffic areas. Installation of a high tensile fence with electrification will probably cost about \$1.80 per running foot. Vinyl top rails with high tensile



wires running through them may be used in conjunction with 4 or more regular high tensile wires to improve visibility, or 3-4 vinyl rails with high tensile wires inside may be used alone as a safe and strong horse fence.

Electric wire fence should not be used alone for horse fencing. Three stands of electric wire with metal posts and insulators may be used to divide permanent pastures into smaller grazing areas so that rotational grazing may be used to improve pasture production, but this type of fence should never be counted on for use as a perimeter fence. It lacks visibility, strength and the ability to safely enclose horses away from unwanted human contact. Electrified tape fencing made of woven threads of vinyl or plastic with fine wires may also be used as temporary

horse fencing within a secure perimeter fence, and it has better visibility than regular electric wire, but it still must not be used as the sole perimeter fence. Electric wire fencing may cost as little as \$.35 per running foot.

Barbed wire should never be used for horse fencing. Barbed wire fencing is highly likely to result in serious injury to horses due to its lack of visibility and dangerously sharp edges.

Pipe fencing may be quite suitable for horse enclosures, and is strong and durable. Pipe fencing is often used for horse pastures in the Southwestern United States where oil field pipes are plentiful. Although the initial construction cost usually significantly exceeds \$2.00 per running foot, the maintenance costs are low.

Chain link fencing is similarly expen-

sive, and is good for keeping out predatory animals, and but tends to lack horizontal strength and sags over time, thus maintenance costs are relatively high. Chain link fences with sharp top wires should be avoided for horse enclosures.

Poly vinyl chloride (PVC) fencing has become very popular as horse fencing. It doesn't require painting, and looks very much like a traditional board fence. However this type of fence should be

considered to be a decorative fence unless it is fitted on the inside with electric wire. It may be effectively used as a riding arena fence without electrification, but the rails are usually not strong enough to be used as a pasture perimeter fence without added electrification. This fence also costs well in excess of \$2.00 per running foot, but requires minimal maintenance.

#### Conclusion

Several different types of fencing can be safely and effectively used for horse facilities. These different fencing systems have both advantages and disadvantages that should be considered before deciding on the type of fence most suitable to a specific horse facility.

## Consider planned giving to help support work of HCI's Foundation

As you begin to think about a successful harvest, gift-giving and tax deductions, Horsemen's Council of Illinois reminds you that its Illinois Equine Foundation is a 501 (c) (3) organization, meaning that gifts to the Foundation are tax deductible.

The Foundation has been organized by and is a program of the Horsemen's Council of Illinois, a 501 (c) (6) organization.

An important distinction between the mutually exclusive 501 designations, according the Kevin Kline, who chairs the Foundation's board of directors, is that while a (c) (3) can receive tax deductible contributions, a (c) (6) permits an organization to conduct legislative lobbying and advocacy work, HCI's principal mission as the voice of the Illinois horse industry.

Gifts to support the work of the Council may be received through the Foundation as monetary sums via checks or wire transfers as well as in the form of stocks, annuities, bequests from an estate, endowments, etc.

If you would like to help ensure the future of the Council and its Foundation's work, consider a planned gift. Making a bequest to the Foundation is a simple process that has significant tax benefits for you and/or your estate. You will gain and immortality that cannot be achieved in any other way.

•Naming a charitable beneficiary in a will or living trust is the simplest and most popular way of making a deferred gift, but the Foundation also offers additional options.

- •Life income plans pay a fixed or variable amount to one or more beneficiaries for their lifetime, or a fixed term of years. After that, the remainder is donated to the Foundation.
- Naming the Foundation as a charitable beneficiary of an insurance policy or IRA plan also is an easy process.
- Gifts to a memorial endowment fund, in your name or that of another person, ensure your gift will benefit the Foundation in perpetuity.

For more than a decade, HCI has used the Foundation to support the Ruby Holmquist Memorial Scholarship Fund, and more recently the Dean Scoggins Memorial Scholarship.

By charter, Foundation funds are used solely for scholarship and educational pur-

poses, Kline said.

"Contributors may designate their gifts, however, for general or specific uses, such as either of the current memorial scholarship programs or to expand HCI's educational efforts, including development, publication and distribution of equine related pamphlets, guides and brochures," Kline said.

"Or contributions may be designated to support new programs," Kline said, "such as educational seminars on environmental, zoning, legal, best practices and business aspects of the equine industry."

Gifts can be in any amount. For example, one of Dr. Scoggins's long-time friends recently provided \$10,000 to support the annual scholarship in his name. Gifts of \$25 or more will automatically generate receipts for tax purposes.

For information on how to become a major Foundation Sponsor or sustaining member, contact the Illinois Equine Foundation, 3085 Stevenson Drive, Suite 200, Springfield IL 62703, 217-529-6503.

Checks may be made payable to the Illinois Equine Foundation and mailed to the address above.

## Home is Where Your Horse Is—But is Homeowner's Insurance Enough?

by: Yvonne C. Ocrant, JD and HCI Director In these tough economic times, more than ever, horse owners are always finding ways to save money on their horse expenditures. One common cost cutter is to reduce or completely discontinue horse insurance, such as major medical, personal horse owners insurance, and professional liability coverage. Many people prefer to rely solely on their homeowner's insurance policy. There is a shared misconception that homeowner's insurance provides adequate liability protection. This article demonstrates why homeowner's insurance may not only be inadequate, but when your policy may even specifically exclude liability coverage for equine related activities.

#### **Business Pursuits Excluded**

It is true that your homeowner's insurance policy will typically protect you if someone or something is unintentionally injured or damaged on your property. However, if you are conducting any business or "business pursuit" whatsoever, your hom-

eowner's insurance policy will not provide protection. A "business pursuit" includes, among other things, riding lessons, boarding, or training, whether for money or something else of value. For example, if a visitor on your property is injured in your barn, your homeowner's policy will probably cover your liability. However, if the visitor injured was a boarder in your barn, whether she is paying or "working" for her board, boarding her horse is considered a "business pursuit" and the policy may not afford you protection. For those of you interested in the law behind this logic, here are several examples of horse related injury cases where the court denied coverage under the "business pursuits" exclusion of the homeowner's insurance policy:

In Pacific Indemnity Insurance v. Aetna Casualty and Surety, Carol and Charles Popp boarded horses on their own farm. Popps hired Karen Deutsch as an independent contractor to care for the horses boarded at the farm, including the horse owned

by Susan and Harold Dale. Deutsch was injured when she was kicked by the Dales' horse. At that time, the Popps were insured by Pacific Life. Deutsch sued the Popps for her injuries. Pacific and Popps demanded Aetna, Dales' insurer provides coverage under Dales' homeowner's insurance policy which included coverage for: "any person or organization legally responsible for" their horse as an additional insured. Aetna refused to defend them or provide coverage claiming that the Popps were engaged in a business pursuit within the meaning of an exclusion in its policy. The trial court found that Popps' boarding of horses constituted a business pursuit that was excluded from coverage under the Aetna policy. Pacific argued on appeal that the trial court improperly concluded that the Popps were boarding horses with a profit motive when, in fact, it was not their means of earning a livelihood. Aetna argued that a business pursuit need not constitute the insured's

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# Senate Committee on Appropriations Approves FY 2012 USDA Funding Bill

The American Horse Council reports that the Senate Committee on Appropriations approved its version of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for 2012. This bill provides funding for the U.S. Department of Agriculture (USDA) for 2012 fiscal year (October 1, 2011 through September 30, 2012) and contains several provisions of interest to the horse industry.

The Senate bill authorized different levels of funding for various USDA programs than the House bill (H.R. 2112) passed on June 1, 2011. The AHC reported on the House Appropriations Committee approval of the USDA funding bill for 2012 fiscal year.

#### **USDA Funding**

The Senate bill sets overall funding for USDA's Animal and Plant Health Inspection Service (APHIS) at \$820.1 million. APHIS is the agency responsible for responding to disease outbreaks. This is approximately \$36 million more than the House-approved funding level of \$783.4 million.

The Senate bill is \$43 million less than FY2011 levels and \$12 million less than the President's FY2012 budget request. By comparison, the House bill was \$80 million less than FY2011 levels and \$49 million below the President's request for FY2012. However, the Senate bill maintained funding for equine, cervid, and small ruminant health at \$22 million in accordance with the President's request and the House bill.

The Senate bill funds the Agricultural Research Service (ARS) at \$1.01 billion. ARS is USDA's chief scientific research agency and has played a critical role in mitigating the health and economic impacts equine infectious diseases, such as Equine Piroplasmosis, have had on the horse industry.

The Senate bill is approximately \$100 million more than the House bill authorized. The Senate bill is \$40 million less than FY2011 levels and the President's FY2012 budget request; however, the House bill was \$146 million less than FY2011 levels and \$150 million below the President's FY2012 request.

The Senate also provided \$7 million for the new animal disease traceability system, which USDA published a proposed rule on in August 2011. You can view the AHC's information on the new animal disease traceability program.

#### **Horse Protection Act**

The Senate bill approved funding for enforcement of the Horse Protection Act at \$891,000 which is the same amount as the President's FY2012 budget request and \$400,000 more than the House bill authorized.

#### **Equine Transport**

The Senate bill also included committee report language expressing concern with the lack of progress on USDA's 2007 proposed rule changes under the Commercial Transportation of Equines to Slaughter Act. The Senate Committee directed USDA to finalize the rule before October 1, 2011. USDA published the final rule September 7, 2011.

#### Status

This bill must now be approved by the full Senate, and go through a conference committee with representatives from both the Senate and the House to resolve any differences between the two bills.



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sole or principal source of income, but, rather, that a business pursuit denotes any continuous activity that an insured carries out for the purpose of earning a profit. The Connecticut Supreme Court agreed with Aetna. The Court clarified that: "for purposes of the 'business pursuits' exclusion, the 'business' engaged in by the [insured] need not necessarily be limited to his sole occupation or employment." The Court also cited the Supreme Court of Oklahoma's reasoning in Wiley v. Travelers Ins. Co. stating that: "In a business pursuit, the profit motive, or purpose of profit, is important. Whether there is or is not actual profit is immaterial. Does a pursuit have to be successful from a profit standpoint before it is a business pursuit? If a business suffers a loss, was it not a business? The answers are obvious. Profit motive. not actual profit, makes a pursuit a business pursuit." 534 P.2d 1293, 1295 (Okla. 1974). Pacific Indemnity, 240 Conn. 26 (Feb. 11, 1997).

·In State Automobile v. Dolosich, Dolosich was bitten by a horse while riding in the indoor arena of Dogwood Trails' stables. The property was owned by George Stecz who was covered by a State Automobile Insurance Company Homeowner's Policy. The policy which provided coverage for bodily injury, property damage and medical payments to others resulting from an accident during the policy period. Dolosich filed a personal injury lawsuit against Dogwood Trails, Stecz, and the barn manager, Connie Rosborough. The insurance company asked the trial court to find the homeowner's policy does not provide for a defense or indemnification of Stecz, Rosborough, or Dogwood Trails because the accident was not covered under the business exclusion provision of the policy. The trial court agreed and the Ohio Court of Appeals agreed as well. The Court held that the boarding activity operated out of Stecz's property was a business, although not one in which a profit had yet been shown. Nevertheless, because the boarding activity was engaged in with a profit motive, it was a business activity and therefore excluded from the homeowner's policy. Dolosich, 135 Ohio App.3d 601 (Nov. 15, 1999)

The majority of jurisdictions that have considered this issue have followed the standard that the term business pursuits means a continuous or regular activity that is conducted for the purpose of profit or a livelihood. The determination of whether a particular activity constitutes a business pursuit is to be made on a case-by-case basis analysis and an interpretation of the specific policy language consistent with the insured's reasonable expectations.

#### **Horses Boarded Exclusion**

Homeowners insurance also explicitly excludes coverage for horses boarded in your facility. Horses you do not own, but are in your care, custody or control, are also excluded from the basic commercial liability policy. Purchasing additional insurance, known as a care, custody, and control policy, can protect you from liability in the event a horse is injured while boarded at your facility or is otherwise in your care.

#### **Insufficient Policy Limits**

A homeowners policy significantly limits coverage for "Business Property and Appurtenant Structures." Business personal property includes items such as tack, hay, feed, and equipment. The coverage is typically limited to \$2,500 on your property and \$250 off your property. This limit is rarely adequate to replace equipment damaged or stolen off your property. "Appurtenant structures" include barns, hay storage buildings, and tack rooms, even if they are not used for business purposes. These structures are specifically excluded from homeowner's insurance policies. Specific insurance, sometimes called a "Ranch Package" policy, lists each item of personal equine property with its true replacement value. This clarifies the item intended to be insured and removes the business limitation on the use of the property.

#### **Other Exclusions May Apply**

Homeowner's insurance policies may also contain coverage exclusions for horse related activities for which you intended insurance. For example, injuries arising out of loading hay into your truck or unloading a horse out of your trailer may be excluded under the homeowner's policy. Consider this example from the Louisiana Appellate Court:

·In *Turner v. Moore*, Moore was having trouble loading a young colt into his trailer attached to his truck when he asked for

Turner's assistance. The colt reared and Turner fell inside the trailer and broke his hip. Turner sued Moore's homeowner's insurance company. The homeowner's policy contained an exclusion for bodily injury arising out of: "The ownership, maintenance, use, loading or unloading of motor vehicles or all other motorized land conveyances, including trailers, owned or operated by or rented or loaned to an 'insured'." The court found that the homeowner's policy excluded coverage for the loading of a motor vehicle or trailer connected thereto. The injury occurred during the loading of a horse onto a trailer connected to a truck and therefore falls under the definition of "loading" in the policy exclusion.

For all of the above listed reasons, a homeowner's insurance policy may provide inadequate insurance for your intended equine activities. A commercial general liability insurance policy, or other insurance policy specifically designed for your business activities, is necessary. It is important to purchase your policy from an agent and company specializing in equine insurance and therefore familiar with your coverage needs. Your equine insurance needs are specific to your horse, your business, and your equine related activities. The complexity of equine insurance coverage commands the advice and assistance of knowledgeable agents and insurance providers. For these same reasons, consult with an attorney specializing in equine law to review your equine policies and intended activities to examine and evaluate your actual insurance coverage. Please contact the author if you have any questions on this important topic or if you need an equine insurance agent referral.

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## USDA Tightens Slaughter Horse Transport Rules

The U.S. Department of Agriculture (USDA) has amended the regulations under the Commercial Transport of Equines to Slaughter Act to extend the protections now afforded to horses that are transported directly to slaughter facilities to include horses bound for slaughter, but first transported to intermediate collection points, such as assembly points, feedlots, or stockyards. The new rule went into effect on October 7, 2011.

In its recently-released report entitled "Horse Welfare: Action Needed to Address Unintended Consequences from Cessation of Domestic Slaughter," the Government Accountability Office called on USDA to adopt these proposed rules to more broadly define "equines for slaughter" so that federal oversight is extended to more of the transportation chain for horses going to processing facilities.

#### **Background**

In 2001, USDA adopted rules that subjected commercial transporters of slaughter horses to federal regulation for the first time. The rules require shippers to certify the fitness of horses to travel and provide them with water, food, and rest for 6 hours prior to being loaded for transport. Once loaded the horses cannot be shipped for more than 28 hours without being offloaded for 6 hours and given the chance to rest, eat and drink. During transport, horses must be checked every 6 hours to ensure that no horse has fallen or in distress. Shippers must segregate stallions and aggressive horses from others, provide enough room for the horses during transport, and use trucks equipped with doors and ramps that allow safe loading and unloading. The rules prohibited the use of double-deck trailers to transport horses to slaughter after December 7, 2006.

In November, 2007, concerned that some horses bound for slaughter were not being protected because they were being delivered first to an assembly point, feedlot, or stockyard, USDA proposed to redefine "equines for slaughter" to include these horses. USDA received over 90 com-

ments during the comment period, including comments from the AHC.

#### **Rule Changes**

The final rule makes several changes. The primary change, which was in the proposed rule, broadens the application of the Act by expanding the definition of "equines for slaughter" to include "any member of the Equidae family being transferred to a slaughter facility, including an assembly point, feedlot, or stockvard." Previously, the rule only applied to horses moved directly to a slaughter plant. In effect, the rule change moves-up the point at which the regulations apply in the process of moving horses to a slaughter facility. The rule changes provide equines delivered to intermediate points en route to slaughter with the same protections regarding food, water, hour limits, and the prohibition on double-decker trucks, as those horses moved directly to plants.

This change eliminates the possibility that horses en route to slaughter could continued on page 10

Chicagoland Equestrian Lifestyle Expo, continued from page 4

Larry Whitesell, Baxter, TN, with Jennifer Bauer, reflect the French Classical School in their training methods. They teach people how collection produces gait as well as a relaxed and responsive horse, in such a way that anyone can do it.

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In addition to headliners, Expo features leading trainers, nutritionists, animal scientists, veterinary specialists and researchers in the forefront of equine understanding...

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and nutritionists, plus RoundTables with intimate access to the speakers (think speed dating with your choice of experts).

Sunday's ProTrack series of six seminars for stable and farm managers will cover how to improve customer relations, workmen's comp, target marketing, effective use of social media, new Stablemen's Lien Law, pending labor law reforms and how to write a business plan.

Expo tickets will be available online or at the door: Daily \$8, Weekend \$14. Parking is free at the Lake County Expo Center, lo-

> cated halfway between Chicago and Milwaukee in the countryside south of Grayslake. The premier exposition facility is west of I-94 at the intersection of Peterson and Midlothian Roads, just west of Libertyville.

> > For tickets, call

toll free 1.866.384.9161 or visit www.HorsemensCouncil.org/Expo. For exhibitor information: Joy Meierhans 630.557.2575 or JM@TheMeierhans.com.



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USDA Tightens Slaughter Horse Transport Rules, continued from page 6

be transported to an assembly point in a double-deck trailer and without any of the protections afforded under the regulations. USDA believed equines were delivered to these intermediate points en route to slaughter in part to avoid compliance with the regulations. The final rule change eliminates that possibility.

#### **Additional New Definitions**

This final rule also adds several new definitions, which were not in the proposed rule. These are definitions of:

Assembly Point: Any facility, including auction markets, ranches, feedlots, and stockyards, in which equines are gathered in commerce.

Feedlot: Any facility which consolidates livestock for preconditioning, feeding, fattening, or holding before being sent to slaughter.

Stockyard: Any place, establishment, or facility commonly known as stockyards, conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens, or other enclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce.

USDA notes that these definitions are intended to be consistent with common industry and dictionary definitions of these terms as well as with the definitions established by the Grain Inspection, Packers, and Stockyards Administration.

In the narrative adopting the new rule, USDA noted that it will consider all horses

delivered to an assembly point, feedlot or stockyard to be equines for slaughter and subject to the regulations unless the owner/shipper presents an official certificate of veterinary inspection and the original copy of a negative equine infectious anemia test chart or other documents indicating the names and addresses of the consignor, consignee, owner and examining veterinarian for any horse being shipped, or other evidence that the horses are not bound for slaughter.

In addition, the condition precedent for the Act and rules to apply requires that the horses in transit are actually "being transferred to a slaughter facility." Simply shipping a horse to a facility, event, farm, ranch or sale would not subject the horse or the transport process to the Act and the regulations.





