
Includes previous revisions to the Wild Free-Roaming Horse and Burro Act (Public Law 92-195) and modifications by the Public Rangelands Improvement Act of 1978; as well as modifications by the Federal Land Policy and Management Act of 1976. Current revisions include the ROAM ACT of 2009.

111TH CONGRESS

1ST SESSION **H. R. 1018**

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 HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2009

Mr. RAHALL (for himself and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on 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. 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 2 Burros Act; 16 U.S.C. 1331 et seq.).

16 USCS § 1331 SEC. 2. POLICY

To require the protection, management, and control of wild free-roaming horses and burros on public lands. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered an

integral part of the natural system of the public lands.

16 USCS § 1332 SEC.3. DEFINITIONS.

As used in this Act [[16 USCS §§ 1331](#) et seq.]--

(a) "Secretary" means the Secretary of the Interior when used in connection with public lands administered by him through the Bureau of Land Management and the Secretary of Agriculture in connection with public lands administered by him through the Forest Service;

(b) "wild free-roaming horses and burros" means all unbranded and unclaimed horses and burros on public lands of the United States;

(c) "range" means the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for the public lands;

(d) "herd" means one or more stallions and his mares;

(e) "public lands" means any lands administered by the Secretary of the Interior through the Bureau of Land Management or by the Secretary of Agriculture through the Forest Service ;

(f) "excess animals" means wild free-roaming horses or burros which must be removed from an area, in accordance with section 3(d), in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area."

16 USCS § 1333 SEC. 4. INVENTORY AND DETERMINATIONS

(a) All wild free-roaming horses and burros are hereby declared to be under the jurisdiction of the Secretary for the purpose of management and protection in accordance with the provisions of this Act [[16 USCS §§ 1331](#) et seq.]. The Secretary shall—

"(1) protect and manage wild free-roaming horses and burros as components of the public lands;

"(2) designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation, where the Secretary after consultation with the wildlife agency of the State where any such range is proposed and with the Advisory Board established in section 7 considers such action desirable.

"(3) manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands;

"(4) consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 7;

"(5) ensure that management activities are at the minimal feasible level and carried out in consultation with the relevant State wildlife agency in order to protect the natural ecological balance of all wildlife species, particularly endangered wildlife species; and

"(6) ensure that any adjustments in forage allocations are made after taking into consideration the needs of other wildlife species.

"(b) In order to determine if an overpopulation of wild free-roaming horses and burros exists, the Secretary shall--

"(1) maintain a current inventory of wild free-roaming horses and burros on the public lands;

"(2) update the inventory annually; and

“(3) make the inventory by herd management area available to the public on the Website of the Bureau of Land Management at no cost.

“(c) In order to better manage wild free-roaming horses and burros, the Secretary, not later than one year after the date of the enactment of this section, shall take the following actions:

“(1) Adopt and employ the best scientific, peer reviewed methods to accurately estimate wild free-roaming horse and burro populations on public lands.

“(2) Employ scientifically sound methods to develop a policy for setting consistent, appropriate management levels.

“(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 Bureau of Land Management personnel on the use of these standard techniques to estimate population and determine appropriate management levels.

“(6) Consult with—

“(A) the United States Fish and Wildlife Service;

“(B) wildlife agencies of the State or States where wild free-roaming horses and burros are located;

“(C) individuals independent of Federal and State governments who have been recommended by the National Academy of Sciences; and

“(D) individuals who the Secretary determines to have scientific expertise and special knowledge of wild horse and burro protection, wildlife management, and animal husbandry related to rangeland management.

“(7) Identify new, appropriate rangelands for wild free-roaming horses and burros, including use of land acquisitions, exchanges, conservation easements, and voluntary grazing buyouts, and negotiate with private landowners to allow for the federally supervised protection of wild horses and burros on private lands.

“(8) Establish sanctuaries or exclusive use areas; and

“(9) Research, develop, and implement enhanced surgical or immunocontraception sterilization or other safe methods of fertility control.

“(d) If the Secretary has exhausted all practicable options of maintaining populations of wild free-roaming horses and burros on the range, the Secretary may provide that excess wild free-roaming horses and burros are humanely captured and removed for private maintenance and care, so long as the Secretary has determined an adoption demand exists by qualified individuals and the Secretary can ensure humane treatment and care by requiring that—

“(1) no more than four wild free-roaming horses and burros may be adopted per year by any individual, unless the Secretary determines, in writing, that the individual is capable of humanely caring for more than four wild free-roaming horses and burros, including the transportation of such animals by the adopting party;

“(2) each individual adopter shall execute an appropriate attestation, pursuant to section 1001 of title 18, United States Code, affirming that adopted animals shall not be used for purposes of slaughter for human consumption;

“(3) methods for removing wild horses and burros shall not include the use of helicopters or any other airborne devices; and

“(4) wild horses and burros shall not be contained in corrals or other holding facilities for more than 6 months, while awaiting disposition.

“(e) When an excess wild free-roaming horse or burro has been transferred to a qualified individual for adoption and private maintenance pursuant to this Act and the Secretary determines that such individual has provided humane conditions, treatment, and care for such animal for one year, the Secretary may, upon

application by the transferee, grant the transferee title to that animal.

“(f) Not later than one year after the date of the 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 burros and the adoption program;

“(2) explore public outreach opportunities, including agreements with local and State organizations that are using horses and burros 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; and

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

“(g) 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; and

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

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

“(i) Except in cases of removal under subsection (g) or subsection (h), if the Secretary removes wild free-roaming horses or burros from the range or decreases the range of the wild horses and burros, the Secretary shall provide a public notice on the Website of the Bureau of Land Management 30 days prior to the planned removal.

“(j) The Secretary shall—

“(1) track the number of wild free-roaming horses and burros injured 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 horse and burros could be provided to the public to help inform the public about the treatment of wild free roaming horse and burros; and

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

16 USCS § 1334. SEC. 5. PRIVATE MAINTENANCE.

Private maintenance; numerical approximation; strays on private lands; removal: destruction by agents

If wild free-roaming horses or burros stray from public lands onto privately owned land, the owners of such land may inform the nearest Federal marshal or agent of the Secretary, who shall arrange to have the animals returned to public lands; Nothing in this section shall be construed to prohibit a private landowner from maintaining wild free-roaming horses or burros on his private lands, or lands leased from the Government, if he does so in a manner that protects them from harassment, and if the animals were not willfully removed or enticed from the public lands. Any individuals who maintain such wild free-roaming horses or burros on their private lands or lands leased from the Government shall notify the appropriate agent of the Secretary and supply him with a reasonable approximation of the number of

animals so maintained.

16 USCS § 1335 Recovery rights

A person claiming ownership of a horse or burro on the public lands shall be entitled to recover it only if recovery is permissible under the branding and estray laws of the State in which the animal is found.

16 USCS § 1336 SEC. 6. COOPERATIVE AGREEMENTS.

The Secretary is authorized to enter into cooperative agreements with other landowners and other private entities and with the State and local governmental agencies and may issue such regulations as he deems necessary for the furtherance of the purposes of this Act [[16 USCS §§ 1331](#) et seq.].

16 USCS § 1337 SEC. 7. JOINT ADVISORY BOARD.

§ 1337. Joint advisory board; appointment; membership; functions; qualifications; reimbursement limitations

The Secretary of the Interior and the Secretary of Agriculture are authorized and directed to appoint a joint advisory board of not more than 12 members to advise them on any matter relating to wild free-roaming horses and burros and their management and protection. They shall select as advisers persons who are not employees of the Federal or State Governments and shall include at a minimum three representatives of the livestock industry; three representatives of the environmental community; three representatives of the humane community; and three scientists with doctorate degrees who have expertise in wildlife management. Selection of members of the board shall be conducted by notice and comment rulemaking in accordance with the Administrative Procedure Act (5 U.S.C. et seq.) shall be for a term of four years. No individual shall serve more than two consecutive terms.

16 USCS § 1338 SEC. 8. CRIMINAL PROVISIONS.

(a) Violations; penalties; trial. Any person who--

(1) willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the Secretary, or

(2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary, or

(3) maliciously causes the death or harassment of any wild free-roaming horse or burro, or

(4) except as provided in section 3(d) [[16 USCS § 1333\(e\)](#)], processes, transports for processing, or permits to be processed into commercial products a [live or deceased](#) wild free-roaming horse or burro, or

(5) sells, directly or indirectly, a wild free-roaming horse or burro maintained on private or leased land pursuant to section 4 of this Act [[16 USCS § 1334](#)], or the remains thereof, or

(6) willfully violates a regulation issued pursuant to this Act [[16 USCS §§ 1331](#) et seq.], shall be subject to a fine of not more than \$ 2,000, or imprisonment for not

more than one year, or both. Any person so charged with such violation by the Secretary may be tried and sentenced by any United States commissioner or magistrate [magistrate judge] designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in [section 3401, title 18, United States Code](#).

(b) Arrest; appearance for examination or trial; warrants: issuance and execution. Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this Act [[16 USCS §§ 1331](#) et seq.] or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this Act [[16 USCS §§ 1331](#) et seq.] or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

16 U.S.C.S. § 1338a SEC. 9. TRANSPORTATION OF CAPTURED ANIMALS.

In administering this Act, the Secretary may use or contract for the use of motor vehicles for the purpose of transporting captured animals. Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. Such use shall be in accordance with humane procedures prescribed by the Secretary.

16 USCS § 1339 SEC. 10. REPORTS

(a) (1) After the expiration of thirty calendar months following the date of enactment of this Act, and every twenty-four calendar months thereafter, the Secretaries of the Interior and Agriculture will submit to Congress a joint report on the administration of this Act, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions he might deem appropriate.

(2) The Secretary of the Interior and the Secretary of Agriculture shall consult with respect to the implementation and enforcement of this Act and to the maximum feasible extent coordinate the activities of their respective departments and in the implementation and enforcement of this Act. The Secretaries are authorized and directed to undertake those studies of the habits of wild free-roaming horses and burros that they may deem necessary in order to carry out the provisions of this Act.

“(b)(1) Not later than one year after the date of the enactment of this subsection and annually thereafter, the Secretary 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 report that contains the following:

“(A) The number of acres managed by the Bureau of Land Management 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 Bureau of Land Management 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 enhanced surgical or immunocontraception sterilization research and development;

“(I) the extent to which fertility control is being used by the Bureau of Land Management 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 horses the agency has contracepted and put back on the range; and

“(L) which herds contraception has been administered and with what results.

“(2) Each report submitted under paragraph (1) shall be made available to the public on the Website of the Bureau of Land Management.”