

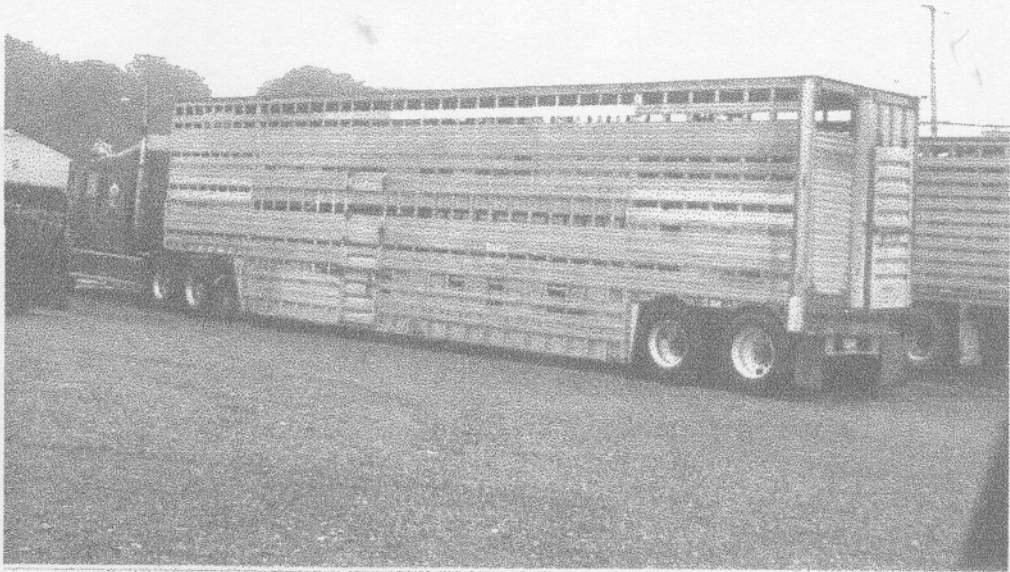
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Indiana Conference Committee on SB86



Double deck trailer in New Holland, PA 1998

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Equine Protection Network

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Introduction

Good morning. I want to thank Senator Wyss for introducing this much-needed legislation and inviting the Equine Protection Network, (EPN) to testify here today before the conference committee. The original language of Indiana Senate Bill 86 would prohibit the transportation of any equine in a vehicle with two or more levels stacked on top of each other, commonly known as “double deckers”, “possum bellies”, or “pots”. The EPN supports this legislation in its original form as passed by the Indiana Senate, 49-0.

My background in horses includes 2-½ years employment as an attendant for Brook Ledge Horse Transportation, a leader in the horse transportation industry. My duties included assisting in the loading and unloading of horses, accompanying the horses during transit in the trailer, monitoring their condition, and the feeding and watering of the horses. This requires that you ride in the trailer with the horses 24/7, including sleeping in the trailer. On average I would be on the road for 14 days. I cared for racehorses, showhorses, breeding stock, and pleasure horses. After observing thousands of different horses being loaded and transported from this vantage point, I am very well aware of how horses position themselves in a trailer during starts, stops, turns, curves, sudden braking, and how they balance while on various types of roads, from back roads to interstate highways.

I first became aware of this issue in 1981, after reading articles in a national horse magazine. I read with disbelief the stories of a stretch of highway in New York State, nicknamed the “Torture Trail”, given its name not because the horses were destined for slaughter, but due to the horrendous conditions under which horses were transported. In later

articles, I read that NY had passed legislation in 1981 prohibiting the use of double deck trailers to transport horses. (NY Agriculture and Markets Law, Section 359-a)

In 1996, I attended the infamous horse auction in New Holland, PA and was surprised to see 3 double deck trailers from NY, being used to transport horses. I brought this information to the attention of the New York State Police, (NYSP) who responded by stepping up enforcement of NY Agriculture and Markets Law, Section 359-a., in NY. In addition, **NY State Senator John Kuhl, Chairman of the Senate Agriculture Committee**, introduced legislation, that was signed into law by **Governor Pataki**, raising the fines and requiring courts to report convictions to NY Agriculture & Markets. There have been at least 7 stops and 85 convictions resulting in \$8000.00 in fines, since the use of the double deck trailers was brought to NYSP's attention. In addition one NYSP trooper is responsible for 2 previous convictions on almost 200 counts resulting in fines of \$21,000. The results of these enforcement efforts were that 2 of the 3 killer buyers operating in NY and PA no longer use double deck trailers in NY or PA. Instead they use single tier trailers.

The horse auction in Lancaster County, PA is known in the horse industry as the largest weekly horse sale east of the Mississippi. It was imperative for PA to pass legislation to ban the use of double deck trailers to transport horses. The EPN accomplished that goal in June 2001 with the passage of Act 64, currently the strongest law in the United States prohibiting the use of double deck trailers to transport any horse, no matter what their final destination.

Important Points in Original Version SB86

- The offense is in the crimes code with criminal penalties, providing police officers with jurisdiction.
- Each horse is a separate offense, compounding the amount of the fine. Fines must be higher than the cost of doing business if this law is to deter the use of double deckers.
- The original language is engineering based (specific), stating, ***“transported a horse in a vehicle having two (2) or more levels stacked one (1) on top of another commits transportation of a horse in a cruel manner...”***

This language effectively eliminates a double deck trailer from being utilized to transport horses. Problems caused by a lack of overhead clearance and steep narrow metal ramps are also eliminated.

- In its original language, SB86 needs no veterinarians, trailer manufacturers, commercial transportation or industry experts to appear as expert witnesses testifying as to why the transport is cruel on a "case by case" basis to attain a conviction.

Reasons to Drop Amendment Added In House

Amendment added in the House,

“transported in a standing position with its head in a normal upright position above its withers;”

- The amendment is hostile and contrary to the original intent of SB 86. The intent is to prohibit the transport of horses on sub standard cattle and hog trucks. The amendment creates a legal “loophole” or exemption that allows horses to be transported in cruel and inhumane sub-standard vehicles.
- The amendment is vague, ambiguous, and open to individual interpretation rendering the bill unenforceable by law enforcement.
- The amendment is inconsistent with findings from the research mandated by Congress, (Friend Texas A & M); Stull (UC Davis); Grandin (CSU). The United States Department of Agriculture, USDA acknowledges as such in summarizing the results of the research,

“(We) do not believe that equines can be safely and humanely transported on a conveyance that has an animal cargo space divided into two or more stacked levels.”

64 Federal Register 27213

- The amendment is cruel and inhumane. If double deck cattle trailers have been found to be cruel and inhumane to transport slaughter horses, they would also be cruel and inhumane for any other horse as well.
- There are no scientific studies or published horse husbandry articles recommending the transport of horses on double deck trailers, modified or not.

Reasons Not to Accept Height Amendment

Amendment offered but not accepted in the House to require a height of 72" should not be accepted for the following reasons:

- The amendment is hostile and contrary to the original intent of SB 86. The intent is to prohibit the transport of horses on sub standard cattle and hog trucks. The amendment creates a legal "loophole" or exemption that allows horses to be transported in cruel and inhumane sub standard vehicles.
- There are no commercial horse trailers, designed and manufactured to transport 6 or more horses, with a height of less than 78". The accepted horse industry standard for a vehicle of this size is an interior height of 7 to 8'.
- This amendment would legalize the transportation of horses in a substandard double deck trailer, with a height that is substandard for horses.

Reasons Not to Accept Destination Amendment

- The amendment is discriminatory. If it has been deemed cruel and inhumane to transport slaughter horses in a double decker, why would any other horse be exempt?
- The amendment creates an easy avenue to avoid the law. The owner/driver of any double deck trailer carrying horses need merely state that the horses have a destination other than slaughter.

Horse Trailer Design

Commercial horse trailers designed and manufactured to transport more than six horses have an interior height of no less than seven feet and are usually eight feet. A mature horse can range from 15.2 hands (5'2") to over 18 hands (6') at the withers to over 8' tall at their poll (Top of the horses head).

Interior compartments are smooth and sometimes lined with mats or padding to prevent injury to the horses. Horses have very thin skin compared to cattle. There are no beams protruding below the ceiling to injure the horses when they raise and lower their heads for balance, to urinate or when startled.

Floors are covered with rubber mats to provide secure footing and prevent horses with steel shoes from slipping. Bedding material is used to absorb urine, provide a cushion and secure footing. Ramps are covered with rubber and/or cocoa mats, to prevent horses from slipping. Sideboards are used to prevent horses from falling or jumping off the ramps.

Horses are transported, by being tied in individual straight stalls or turned loose in box stalls. Compatible horses can be shipped loose together. Mares and their foals travel in box stalls. Stallions are generally transported in a compartment, separate from other horses to prevent fighting.

Hay is provided for nutrition, but also as a means to occupy the horses. Water is provided every four to six hours, depending upon the weather. Horses are generally not transported more than 24 hours, without being unloaded and allowed to rest for several hours. Commercial horse vans are designed to allow access to the horses being transported for the purpose of watering and

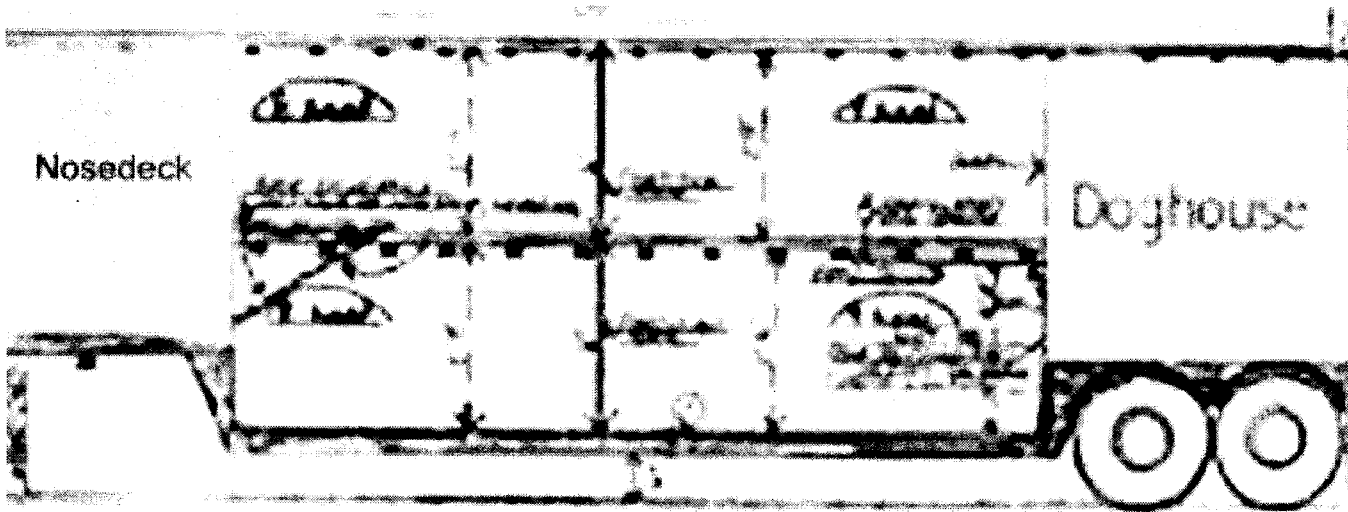
haying the horses. Commercial vans carrying more than 6 horses are usually equipped with air ride.

Tractor-trailers designed to carry horses can transport between 10 and 15 horses, depending on the size of the horses, length of trip, and destination. Larger horses, such as draft horses, thoroughbreds, and warmbloods are shipped in a stall and a half, allowing 10 horses to be transported. Smaller horses are shipped in single stalls with a capacity of 15 horses. During hot weather, the more horses inside the van, the more difficult it is to keep the horses from overheating, as well as provide adequate ventilation. A lack of ventilation inside trailers can cause horses to develop respiratory infections.

Horses are generally led onto trailers using halters and lead ropes. Lights are turned on inside the trailer during loading at night and remain on during nighttime transportation. There are many varied methods used to load difficult horses onto trailers. These practices are employed in the horse industry to prevent injury to the horses being transported. Every effort is made to ensure that the horses being transported arrive in the best possible condition. Horse transportation companies that deliver horses that are sick, injured, or dehydrated, will not stay in business for long.

Double Deck Trailers

Double deck trailers are comparable to a two-story house with one deck stacked on top of the one below it. The compartments at the front, called the nose deck or the 5th wheel, and the compartment at the back, often called the doghouse, are one level. Double deck trailers are designed for cattle, hogs, and sheep; animals with legs and necks much shorter than horses. These animals do not raise and lower their heads and necks in the same manner as a horse. Double deck trailers used to transport horses have been measured with ceiling heights as low as 5'7". In addition, there are solid 3" I beams supporting the top deck every 12" on center.



It is impossible to construct a trailer that would comply with federal height regulations, be able to negotiate highway underpasses, *and* still provide two levels on top of one another with interior heights of 7'. Adding 6" of ground clearance and 3" for the I beams that support the top deck, the trailer would now be 14'9" high loaded with horses that have a much higher center of gravity than cattle and pigs. The trailer would be prone to tipping and a public safety hazard.

Due to the fact that these trailers are designed for cattle and hogs, they lack the necessary safety features to protect horses from injury. The narrow doorways cause horses to bang their hips as they are loaded. The low ceilings cause head and back injuries. The small openings the horses are forced to negotiate to enter and exit the decks of the trailer, also cause injury to the horses. The overhead tracks for the ramps necessary to load the nose section and the top deck cause head and eye injuries

The diamond plate metal floors cause the horses to slip and fall. Due to overcrowding, horses can go down never to rise again. Instead they are urinated and defecated upon by other horses. Horses have been trampled to death under these conditions.

The ramps are made with diamond plate and do not provide secure footing for horses. The ramps in double deck trailers are narrow and steep, designed for animals with much shorter legs than horses.

Horses are not used to being loaded into these trailers and will balk at being loaded. Whips, canes, and electric cattle prods are used to force the horses into the trailers. I have witnessed horses being brutally whipped in the face and eyes. I have witnessed the use of cattle prods to force horses into these trailers. I have watched horses forced at a gallop through the auction alleyways into these trailers. I have watched and listened as horses slipped and fell, or crashed into the bottom deck of these trailers. I have watched the horses forced into these trailers at night with no lights on inside the trailer. Horses are instinctively wary of entering dark structures due to the fact that they are prey, not predators.

I have transported horses throughout the US and Canada. I have watched and participated in the loading of hundreds of horses in one day at legitimate horse sales and horse farms. I have never witnessed professionals in the horse transportation business or any other horse owner for that matter, use any of these methods that I have observed used on horses being forced into double deck trailers.

Those that use double deck cattle trailers use the same justification, whether they are slaughter horses or rodeo bucking stock,

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“There is no financial motivation to injure the horses because we need them healthy.”

The USDA studies proved this to be a hollow smokescreen resulting in grandfathering national prohibition in five years. Seven states have banned these trailers outright, some as long ago as 1976, and PA as recently as 2001.

Opposition Arguments Against Laws Banning Double Deck Trailers

Opponents may point to the regulations of the 1996 Commercial Transportation of Horses to Slaughter Act that will take effect in February 2002. Under these regulations double deck trailers will become illegal in February 2007. The penalties are civil and enforcement is to be conducted by the United States Department of Agriculture (USDA), at slaughterhouses. We strongly believe that double deck trailers need to be banned for the transportation of horses in Indiana *now*, not 5 years from now. Each month hundreds of horses in Indiana are forced to suffer a terrifying and cruel final ride in these trailers designed for cattle and hogs. Allowing this inhumane treatment of horses to continue so that a handful of people can put more money in their pocket is wrong.

Opponents may suggest building an equine slaughterhouse in Indiana, as a solution to the transport problem. In recent years the United States has gone from 14 equine slaughterhouses to 3. Connecticut passed their transport law in 1976 due to the now closed slaughterhouse in their state. The horses leaving Indiana for slaughter have come from various states, not just Indiana. Building a slaughterhouse in the state would increase the transport problem, not decrease it. Residents and horse people in Illinois have repeatedly opposed expansion of the equine slaughterhouse owned by Cavel International in DeKalb, IL. Slaughterhouses are a quick and easy means of disposing of stolen horses. As horsemeat prices rise, so does horse theft, increasing the risk of horse theft to Indiana residents. Slaughterhouses do not look for stolen horses, and all the evidence of the crime can be disposed of in a matter of hours.

Summary

The Pennsylvania and New York Legislatures passed their Horse Transport Laws in 90 days. This year we hope the State of Indiana joins the states of California, Connecticut, Massachusetts, Minnesota, Vermont, and Virginia, as well as Pennsylvania and New York, in banning the use of double deck trailers to transport horses. Several of these states have had their laws on the books for 25 years.

Governor Tom Ridge signed the PA Horse Transport Law on June 25, 2001. On September 4, 2001 ten days after the law went into effect, Sugarcreek Livestock Trucking, Incorporated, Sugarcreek, Ohio was arrested with 31 horses on a double deck cattle trailer in Lancaster County, PA. In December 2001, the company pled guilty to 31 counts of the PA Crimes Code, Title 18, Section 5511(e.1). The company was fined \$1600.00 and the 31 horses were forfeited.

Those who own double deck trailers can sell their double decks at fair market value for use by shippers of other livestock and purchase a single tier trailer. Most shippers and contractors already own single tier trailers, which would remain legal. Case in point, banning the double deck trailers did not stop rodeo contractors in PA as the rodeo was in Harrisburg in November.

The issue of outlawing double deck trailers for horses is a no brainer. If horses fit into double deck trailers, the commercial horse transportation industry would be using them. Case in point, we called:

Sallee Horse Transportation based in Lexington, KY, 35,000 horses hauled last year;

Brook Ledge Horse Transportation with a hub in Lexington, KY, 20,000 horses hauled last year;

Drexler Horse Transportation, based in Chicago, IL, 8,000 horses hauled last year, traveling through IN 4 to 5 times a week;

Creech Brothers, based in St Louis, and in business since 1965

All of these major commercial horse haulers throughout the nation stated that their trailer heights ranged from over 7 feet to 10 feet high, and none of them had ever owned a 6' high horse trailer. It is my understanding that even the BLM has discontinued the use of double deckers in hauling mustangs to adoption sites. Double deck cattle trailers are only used by a handful of "killer buyers", and as we have recently learned a few rodeo stock contractors for their bucking stock.

Individual horse owners would never consider transporting a horse in one, the BLM has voluntarily discontinued using them, the Federal Government has deemed them cruel and inhumane and has grandfathered their prohibition nationally and seven states have already banned them outright. Please return SB86 to its original language and pass it into law.

Thank you,

Christine Berry, President, Equine Protection Network