

Horses, Humans, and the Law: A Study of Four Pillars of Support for Horse Ownership

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INTRODUCTION

“There is nothing better for the inside of the man than the outside of the horse” according to President Ronald Reagan.¹ His great love of horses, horseback riding, and recognition of the benefits of horse ownership are well-known.² President Reagan’s sentiment succinctly captures the boon to humans who have a relationship with horses. People derive joy and positive health benefits³ from caring for—and working with—horses. Children, the disabled, and veterans can benefit mentally, emotionally,⁴ and physically from being near, working with, and riding horses. Miniature horse visits to hospitals and nursing homes do much to brighten the day of patients.⁵ Maintenance of good health has become an urgent priority during the pandemic,⁶ and therefore,

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¹ *Ronald Reagan Presidential Library and Museum*, NAT’L ARCHIVES, <https://www.reaganlibrary.gov/Permanent-exhibits/camp-david-rancho-del-cielo> (last viewed Dec. 28, 2021) [<https://perma.cc/NWW6-SG6R>].

² *Id.*

³ Sharon White-Lewis, *Equine-Assisted Therapies using Horses as Healers: A Concept Analysis*, NURSING OPEN (Sept. 27, 2019), <https://onlinelibrary.wiley.com/doi/full/10.1002/nop2.377> (“Equine assisted therapy and therapeutic riding are known to improve mobility, decrease spasticity, improve physiological presence, and self-esteem.”) [<https://perma.cc/P38U-32UN>].

⁴ Kelsey Faaborg, *The Impact of Horses on Human Health*, EQUESTRIAN LAND CONSERVATION RES. (July 9, 2014), <https://elcr.org/horsesandhumanhealth> [<https://perma.cc/9632-723K>]; Katy Schroeder et al., *Therapeutic Factors in Equine-Facilitated Group Psychotherapy for Women Survivors of Interpersonal Violence*, J. FOR SPECIALISTS GRP. WORK, 43:4, 326–348 (2018) [<https://perma.cc/J32R-TA6L>].

⁵ *See id.*

⁶ Kim Grover, *Making Health and Nutrition a Priority During this COVID-19 Pandemic*, UNIV. OF WISCONSIN-MADISON (Mar. 30, 2020), <https://barron.extension.wisc.edu/2020/03/30/making-health-and-nutrition-a-priority-during-this-covid-19-pandemic/> [<https://perma.cc/8VJ7-FSRZ>].

the salubrious effects of the physical labor and outdoor activity associated with riding and caring for horses have an even higher value than ever before.

Not only is horse ownership advantageous to humans, but it is also good for horses.⁷ Research shows that horses have reduced levels of stress when in the presence of humans.⁸ A solid relationship between owner and horse may even be considered a factor in the long-term survival of the species.⁹ The advantage for a horse with a home—and meaningful work—is a greater chance of living a full, healthy life and of producing another generation of its kind. A horse’s welfare is tied to, and improved by, having an owner.¹⁰ This traditional and mutually beneficial relationship is deserving of legislative support with laws to protect horses by facilitating horse ownership. The connection between horse welfare and horse owner rights ought not be overlooked.

To understand how the process of drafting of laws that are pro-horse *and* pro-horse owner should be approached, consider a pasture’s paddock fencing. It keeps horses in and protects them from what lies beyond. Outside the paddock are dangers such as busy roads, so the fence delineates where the horses may not go. Most drafters of equine laws consider only what can be equated with the fence and the area outside the paddock—writing legislation that restrictively defines what not to do with a horse, ostensibly for its own good or welfare.¹¹ Fewer laws are passed that help support what can permissively be done with horses, as represented by the inside of the paddock.¹² A great deal of energy

⁷ Elyse Schenk, *A Close Look at the Horse-Human Relationship*, HORSE J. (Mar. 14, 2020), <https://www.horsejournals.com/popular/rescue-welfare/equestrianism-and-animal-rights> [https://perma.cc/Y7PP-XU73].

⁸ Paulina Lundberg et al., *Does Training Style Affect the Human-Horse Relationship? Asking the Horse in a Separation-Reunion Experiment with the Owner and a Stranger*, 23 APPLIED ANIMAL BEHAVIOUR SCI. 105,144 (Dec. 2020), https://www.researchgate.net/publication/346335955_Does_training_style_affect_the_hum-an-horse_relationship_Asking_the_horse_in_a_separation-reunion_experiment_with_the_owner_and_a_stranger [https://perma.cc/PDD8-PKSG].

⁹ Carol Hall, *Why Zebra Refused to Be Saddled with Domesticity*, THE CONVERSATION (Sept. 14, 2016), <https://theconversation.com/why-zebra-refused-to-be-saddled-with-domesticity-65018> (Noting the great disparity between the numbers of domesticated horses and the numbers of zebras, domestication appears to be a good survival strategy) [https://perma.cc/JA67-G52X].

¹⁰ Schenk, *supra* note 7.

¹¹ *See, e.g.*, KY. REV. STAT. § 525.130 (2022).

¹² *See, e.g.*, HUNTINGTON, N.Y. MUN. CODE art. 3, § 198.21.4 (2021).

is invested in creating restrictive rules for welfare purposes.¹³ The often-ignored flip side to improving equine welfare is creation of permissive legislation to strengthen and encourage equestrians' ability to keep and use horses, which will in turn ensure horses will have homes and be cared for properly.

Another analogy for the appropriate perspective for drafting equine laws is the operation of a telescope—where one end represents an equine-oriented viewpoint—and the other end represents a horse owner viewpoint. Looking into the objective end rather than the eyepiece end of the telescope will not provide a clear view—but instead only show a blurry image. Similarly, when equine welfare laws are developed by advocates who are looking into the wrong end of the telescope (equine-oriented viewpoint), the resulting law may fall far short of its goals. Starting from the horse owner's viewpoint (the eye lens end of the telescope) the instrument (and the draft law) will function properly. Equine laws which are founded on principles of pro-horse ownership are beneficial because they protect the horse by ensuring it will have a home. For horses, their rights and welfare are inextricably linked to the rights of their owners. Therefore, starting from the horse owners' perspective, and creating laws that help the horse owner to better care for the horse, is an evolution in thinking about new equine laws that is long overdue.

This Article explores the realm of enacted and potential legislative initiatives which affirmatively undergird equine welfare via support of equine ownership. The four pillars are elements that set a framework for the creative thought process required to initiate new legislation to strengthen horse ownership rights. These supports are:

- 1) land rights enabling the ability to keep horses;
- 2) rights to engage in horse-related activities;
- 3) other rights positively influencing horse ownership and
- 4) the appropriate legal categorization of horses.

¹³ See, e.g., *Bills Aim to Make Big Changes to the Horse Industry*, PROTECT THE HARVEST, <https://protecttheharvest.com/news/bills-aim-to-make-big-changes-to-the-horse-industry/> (last viewed Mar. 3, 2022) [<https://perma.cc/6VES-48WN>]; *Understanding the Horseracing Integrity and Safety Act and a New Era of Racing Regulation*, ALBANY L. SCH. (May 27, 2021), <https://www.albanylaw.edu/government-law-center/news/understanding-the-horseracing-integrity-and-safety-act-and-new-era> [<https://perma.cc/96FB-65G9>].

Each of these pillars can—and should—be reinforced by permissive laws that infuse the freedom that horse owners must have to retain the traditional horse-owner relationship and to continue to positively impact equine welfare.

I. FIRST PILLAR: LEGAL PROTECTION OF LAND RIGHTS FOR HORSE KEEPING

The equine-related industry is a significant contributor to the U.S. economy.¹⁴ The American Horse Council's 2017 National Economic Impact Study found that the presence of 7.2 million horses in the U.S. injected \$50 billion into the nation's economy and created approximately 1 million jobs.¹⁵ The economic effects associated with horse ownership are usually felt locally—as the type of goods required for horse care must be purchased frequently and in bulk.¹⁶ Payments to professionals,¹⁷ who serve the horses, also inject dollars into the local economy. However, organizations that are involved in advocacy for the equine industry are siloed and legislatively focus on protecting their specific sports, breeds, or allied equine professionals. Due to the diverse—and sometimes adverse—interests of these organizations, there is inadequate attention to a comprehensive effort to augment this economic powerhouse by legislation that advances land use rights to protect a horse owner's ability to keep horses on his or her property.¹⁸

Despite these challenges, certain organizations do take up the cause of equestrians on the legislative stage. National organizations including The Cavalry Group,¹⁹ the Equestrian

¹⁴ *Economic Impact of the United States Horse Industry*, AM. HORSE COUNCIL, <https://www.horsecouncil.org/resources/economics> (last viewed Dec. 20, 2021) [<https://perma.cc/RHJ3-7VEC>].

¹⁵ *Id.*

¹⁶ Bulk purchases of hay, grain, bedding, and wood are required in such large amounts and with such frequency that it is only practical to purchase them from local vendors.

¹⁷ Trainers, groomers, farriers, barn workers, veterinarians, massage therapists, chiropractors are among the many people a horse owner is likely to employ.

¹⁸ See Deb Balliet, *Loss of Land for Horse-Related Activities*, EQUUS (Mar. 10, 2017), https://equusmagazine.com/horse-world/land_loss_horse_activities_100109/ [<https://perma.cc/J4YW-8Y95>].

¹⁹ THE CAVALRY GRP., <https://www.thecavalrygroup.com> (last viewed Dec. 18, 2021) [<https://perma.cc/Q8FT-ZGL9>].

Land Conservation Resource (“ELCR”),²⁰ the Western Sports Industry Coalition,²¹ and the American Horse Council (“AHC”),²² advocate for the rights of horse owners. At the state level, advocates include horse councils affiliated with the AHC. Equine industry advocacy groups include the Virginia²³ and the Maryland²⁴ Horse Industry Boards and Kentucky Equine Education Project (“KEEP”) Foundation²⁵. Local groups of horse owners have also banded together to preserve their rights, forming organizations such as Horse Farms Forever of Ocala, Florida—whose mission is to preserve the culture which horses and horse farms bring to Marion County.²⁶ Affiliated supporters of horse owners include state—and national—agricultural organizations.²⁷ For instance, the Protect the Harvest group is an agricultural advocate that includes horses in its support for pro-livestock owner-oriented legislation.²⁸

Due to the nature of local regulatory authority over land use, efforts to secure or foster the ability to keep horses either as backyard pets or in boarding barns are typically local.²⁹ Yet there is still a need for even greater focus by statewide and national organizations to uphold the first pillar by assisting equestrians

²⁰ EQUESTRIAN LAND CONSERVATION RES., <https://elcr.org> (last viewed Dec. 18, 2021) [<https://perma.cc/A3AW-VGEC>].

²¹ *Western Sports Industry Coalition*, W. JUSTICE <https://www.westernjustice.info/westernsportscoalitionsaverodeo> (last viewed Dec. 22, 2021) [<https://perma.cc/X53U-8LUZ>].

²² AM. HORSE COUNCIL, <https://www.horsecouncil.org> (last viewed Dec. 18, 2021) [<https://perma.cc/7PUV-VQ8R>].

²³ VA. HORSE INDUS. BD., <https://www.vhib.org> (last viewed Dec. 18, 2021) [<https://perma.cc/9EHD-6YV4>].

²⁴ MD. HORSE INDUS. BD., https://mda.maryland.gov/horseboard/Pages/horse_board.aspx (last viewed Dec. 18, 2021) [<https://perma.cc/CM84-JPS6>].

²⁵ THE KEEP FOUND., <https://thekeepfoundation.org> (last viewed Dec. 18, 2021) [<https://perma.cc/6VAG-G72X>].

²⁶ HORSE FARMS FOREVER, <https://www.horsefarmsforever.com> (last viewed Dec. 18, 2021) [<https://perma.cc/U58X-VTPT>].

²⁷ *E.g.* *2021 Policy Resolutions*, ILL. FARM BUREAU <https://www.ilfb.org/media/7865/2021-resolutions-book.pdf> at 54 (last viewed Dec. 18, 2021) (explaining the Illinois Farm Bureau’s 2021 policy which includes support for seeking legislation to classify equines as livestock; and opposition to efforts to ban or effectively ban use of horses in commerce, service, agriculture, husbandry, transportation, ranching, entertainment, education, or exhibition) [<https://perma.cc/F33A-HHZK>].

²⁸ PROTECT THE HARVEST, <https://protecttheharvest.com> (last viewed Dec. 18, 2021) [<https://perma.cc/2AZG-BKHR>].

²⁹ Christine Hughes, *Horse-Friendly Zoning Practices in American Communities*, EQUESTRIAN LAND CONSERVATION RES., <https://elcr.org/wp-content/uploads/2017/12/Zoning-Best-Practices-December-2017.pdf> at 3 (last viewed Dec. 28, 2021) [<https://perma.cc/YVH7-6XR4>].

with the creation of consistent laws to alleviate the uncertainty surrounding land use rights for horse keeping.³⁰

A. Local

The strongest protection for horse keeping can be found in areas of land zoned for agricultural use.³¹ Breeding farms, horse boarding operations, and competition venues of large acreage may all be permissible when a parcel of land falls within an area zoned for agricultural use.³² However, the purchase of a parcel of land which has an agricultural zoning designation may be out of reach for horse owners, since such parcels are often unaffordable or inconveniently located too far away from populated areas to be practical.³³ Economics dictate that horse owners will likely keep horses on smaller parcels of land which are less rural and therefore not protected by agricultural zoning.³⁴ As a result, the desired land use must be protected by other classes of zoning instead.³⁵ While not an exhaustive list, the following paragraphs provide a sense of the breadth of exemplary zoning categories which give permission to keep horses and those that allow associated uses around the country.

On the local level, there are many communities that have chosen to allow equestrians to keep horses and enjoy them on a small acreage property.³⁶ Backyard horse owners understand that even if they presently have a right to keep horses, their property could be subject to future changes in terms of what use is allowed.³⁷ When the right to keep horses is specifically locked in by land use ordinances, it secures the capability to support private horse ownership.³⁸ One popular aide is the designation of Equestrian Overlay Districts (“EODs”), which may also be

³⁰ *Id.* at 7.

³¹ Julie I. Fershtman, *Horse-Friendly Zoning*, EQUISEARCH (Mar. 29, 2017), <https://www.equisearch.com/discoverhorses/horse-friendly-zoning> [https://perma.cc/LAD6-LZDS].

³² Hughes, *supra* note 29 at 6.

³³ *Id.*

³⁴ *Id.* at 3.

³⁵ *Id.*

³⁶ Denise Y. O’ Meara, *A Look at Backyard Horse Keeping*, EQUINE LAND CONSERVATION RES. (“ELCR”) (Dec. 2018) <https://elcr.org/wp-content/uploads/2018/12/A-Look-At-Backyard-Horsekeeping-reformatted-Dec-2018-Final.pdf> [https://perma.cc/ZUW3-EPHU].

³⁷ Hughes, *supra* note 29 at 4.

³⁸ *Id.* at 5.

referred to as Equestrian Overlay Zoning Districts or Equestrian Overlay Zones.³⁹ Fencing, paddocks, arenas, and barns are specifically allowed by EODs once they are enacted by a local government.⁴⁰

EODs have been established in communities throughout the country. In California, the language in Rancho Cucamonga's, municipal code is typical of an EOD. It establishes that the purpose of the Equestrian Overlay Zoning District is to protect the ability to keep equine animals.⁴¹ The EOD promotes a rural/farm character in an urban setting, recognizes the educational and recreational value of raising and maintaining animals; and also provides that new developments within the overlay district are required to include trails.⁴² Other examples of local governments in California with EODs include Oceanside,⁴³ Rancho Palos Verdes,⁴⁴ Agoura Hills,⁴⁵ Claremont,⁴⁶ Mono County,⁴⁷ Chino Hills,⁴⁸ and La Quinta⁴⁹. EODs are also found in other states including Washington (Clark County⁵⁰ and Kirkland⁵¹); Utah (Eagle Mountain);⁵² and Florida (Wellington)⁵³.

In addition to EODs, unique zoning categories have been created in other parts of the country which have a similar effect to equestrian overlays. Each of these alternatives has a different

³⁹ *Id.* at 15.

⁴⁰ *Id.*

⁴¹ RANCHO CUCAMONGA, CAL. MUN. CODE tit. 17, art. III, ch. 17.38.020 (2021).

⁴² *Id.*

⁴³ OCEANSIDE, CAL., COMPREHENSIVE ZONING ORDINANCE art. 28, § 2801-08 (2021).

⁴⁴ RANCHO PALOS VERDES, CAL., MUN. CODE tit. 7, art. V, ch. 17.46 (2021) (this city has 4 EODs).

⁴⁵ AGOURA HILLS, CAL., CODE OF ORDINANCES art. IX, ch. 5, § 9590 (2021).

⁴⁶ CLAREMONT, CAL., MUN. CODE ch. 16.016 (2021) [<https://perma.cc/KHG7-HJ7A>].

⁴⁷ MONO CNTY., CAL., GEN. PLAN ch. 10 (2021) [<https://perma.cc/6YQB-5FMB>].

⁴⁸ CHINO HILLS, CAL. CODE OF ORDINANCES ch. 16.33 (2021) (Equestrian and Large Animal Overlay District) [<https://perma.cc/35FX-CKGK>].

⁴⁹ LA QUINTA, CAL. MUN. CODE ch. 9.110.090 (2021) [<https://perma.cc/K49M-LVWR>].

⁵⁰ CLARK CNTY., WASH., UNIFIED DEV. CODE, tit. 40, § 40.250.090. (2021) [<https://perma.cc/G48Q-UPAP>].

⁵¹ KIRKLAND, WASH., ZONING CODE ch. 80 (2021) [<https://perma.cc/8MBS-K7JP>].

⁵² EAGLE MOUNTAIN, UTAH MUN. CODE ch. 17.52 (2021) [<https://perma.cc/X9JH-TMLY>].

⁵³ *See generally*, WELLINGTON, FLA., UNIFIED LAND DEV. CODE art. 6, ch. 8, § 6.8 (2020) (protecting 9 thousand acres for equestrian use in the Equestrian Preserve Area covered by the Equestrian Overlay Zoning District. The Palm Beach Little Ranches and Rustic Ranches EOZD's covering 600 acres each are defined by the code.) [<https://perma.cc/5QRZ-LYTX>].

title and specific requirements vary—but all make backyard horse keeping possible. They include Oakley, California’s Limited Agricultural District;⁵⁴ Florence, Arizona’s Rural Residential Equestrian Subdivision and Single Residential Ranchette districts;⁵⁵ Bull Valley, Illinois’s Estate District;⁵⁶ Orange County, California’s Equine Combining District;⁵⁷ Aiken, South Carolina’s Single Family/Horse and Single Family/Stable districts;⁵⁸ Norco, California’s Animal-Keeping Overlay Zone⁵⁹ and Los Angeles, California’s Equinekeeping District⁶⁰.

Some local governments have introduced additional categories of zoning which do not expressly protect horse keeping but do protect other land uses important to horse owners. When a horse is kept on a small acreage farm, the horse owner may not have an indoor arena or other place to ride, so the proximity of a riding facility or trail system is a necessity. Zoning that protects such facilities is another important factor which aids the ability to keep horses. One example of such zoning is Huntington, New York’s Equestrian Center Overlay District which allows equestrian centers for recreational and therapeutic riding.⁶¹ Another example is Aiken, South Carolina’s Horse District which is designed to provide for the protection and creation of open spaces and facilities necessary for horse-training businesses, polo and other equestrian activities.⁶² A third example is Norco,

⁵⁴ OAKLEY, CAL., MUN. CODE § 9.1.402 (2021) [<https://perma.cc/29AU-FBM4>].

⁵⁵ FLORENCE, ARIZ., CODE OF ORDINANCES tit. XV, ch. 150, § 150.050-51 (2021) [https://codelibrary.amlegal.com/codes/florenceaz/latest/florence_az/0-0-0-4855] [<https://perma.cc/B752-RU6B>].

⁵⁶ BULL VALLEY, ILL., ZONING CODE § 5.3-2(e) (2021) [<https://03e88a9.netsolhost.com/wordpress3/wp-content/uploads/2021/12/Section.05.Use-Districts.pdf>] [<https://perma.cc/ZUJ2-BMW4>].

⁵⁷ ORANGE COUNTY, CAL., CODE OF ORDINANCES § 7-9-41 (2021) [https://library.municode.com/ca/orange_county/codes/code_of_ordinances?nodeId=TIT7LA_USBURE_DIV9PL_ART2THCOZOCO_SUBARTICLE_3OVCOOTDI_S7-9-41EEQCODI] [<https://perma.cc/743E-LMQG>].

⁵⁸ AIKEN, S. C., ZONING ORDINANCE art. 2, § 2.2-2.3 (2009) [https://library.municode.com/sc/aiken/codes/zoning_ordinance?nodeId=ZONING_ORDINANCE--GENERAL_PROVISIONS_CH2ZODI] [<https://perma.cc/8HGC-KZJR>].

⁵⁹ NORCO, CAL., MUN. CODE ch. 18.16 (2021) [<https://www.codepublishing.com/CA/Norco#!/Norco18/Norco1816.html#18.16>] [<https://perma.cc/3SMM-FTJA>].

⁶⁰ L.A., CAL., MUN. CODE ch. 1, art. 3, § 13.05 (2021) [https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-119802#JD_13.05] [<https://perma.cc/HCS7-B65V>].

⁶¹ HUNTINGTON, N.Y., MUN. CODE art. 3, § 198.21.4 (2021) [<https://ecode360.com/37456351>] [<https://perma.cc/WRZ3-BNNY>].

⁶² AIKEN, S. C., ZONING ORDINANCE art. 2, § 2.3.2 (2009) [https://library.municode.com/sc/aiken/codes/zoning_ordinance?nodeId=ZONING_ORDINA].

California's Pedestrian-Equestrian Trails zone.⁶³ Each of these communities has taken the additional steps to provide reinforcement for equestrian-oriented land use in addition to granting permission to keep horses.

Lexington, Kentucky utilizes a greenbelt or urban service boundary to control encroachment of higher density housing into more rural areas suitable for equestrian uses. The town's urban service area can be expanded under certain conditions.⁶⁴ An Expansion Area Master Plan ("the Plan") limits urban growth, preserving rural areas.⁶⁵ The boundary lends stability and certainty to land use and property improvements such as breeding farms, horseback riding, indoor arenas, and the like.⁶⁶ Without the Plan, there would be less willingness to invest in creating or maintaining the infrastructure needed to support horse keeping.⁶⁷

B. State

The pandemic and subsequent quarantine forced Americans to become introspective.⁶⁸ After reflecting on their lives, many realized that they were unhappy with their current living conditions, particularly if they were in a smaller home or apartment in an urban environment.⁶⁹ The new-found ability to work from home granted to some a previously unknown

NCE--GENERAL_PROVISIONS_CH2ZODI_ART3SPPUDI_2.3.2HOHDDI
[<https://perma.cc/N4PC-WEUB>].

⁶³ NORCO, CAL., MUN. CODE ch. 18.28 (2021), <https://www.codepublishing.com/CA/Norco/#!/Norco18/Norco1828.html#18.28> (establishing of public easements within public rights-of-way and within private access easements, a zone and use that is compatible with a community that emphasizes equestrian activities) [<https://perma.cc/5FYP-C68L>].

⁶⁴ LEXINGTON-FAYETTE COUNTY, KY., ZONING ORDINANCE art. 23 (2021) (town and county share the same boundaries).

⁶⁵ *Id.*; See also Nolan Gray, *America's First Greenbelt May Be in Jeopardy*, BLOOMBERG (May 16, 2019, 8:00 AM), <https://www.bloomberg.com/news/articles/2019-05-16/lexington-debates-the-future-of-its-greenbelt> [<https://perma.cc/GV9K-HXNJ>].

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ See Jamie Ducharme, *Why the COVID-19 Pandemic Has Caused a Widespread Existential Crisis*, TIME (Dec. 29, 2020, 9:40 AM), <https://time.com/5925218/covid-19-pandemic-life-decisions/> [<https://perma.cc/AZ7Z-3PR7>].

⁶⁹ Cynthia Bowman, *Coronavirus Moving Study: People Left Big Cities, Temporary Moves Spiked In First 6 Months of COVID-19 Pandemic*, FRESHOME (June, 1 2021), <https://www.mymove.com/moving/covid-19/coronavirus-moving-trends/> [<https://perma.cc/XHV4-KUK3>].

geographic flexibility.⁷⁰ As a result, the market for larger homes and properties with yards for healthy outdoor activity became white-hot.⁷¹ The migration to ex-urban and rural locations was the natural outcome of the pandemic.

However, moving to a more rural environment is not without its own challenges—as urbanites discover when they get up close to farm life. The sights, smells, noises, and other things which go hand in hand with active agriculture could be bothersome.⁷² These sensory affronts might have been a reason to sue to try to stop these activities, were it not for existing laws in every state protecting a rural property from nuisance lawsuits if certain conditions are met.⁷³ In essence, when a person moves next door to a farm that has been in existence for at least a year, the new neighbor will be barred from filing a lawsuit over disturbances associated with the farm.⁷⁴ The concept is referred to as “coming to the nuisance” meaning if one chose to move close to an existing nuisance, the resident has effectively elected to live with that nuisance in the eyes of the law.⁷⁵ The state laws are referred to as either “Farm Nuisance Suit” acts or “Right to Farm” acts.⁷⁶ These protective laws could also extend to protect backyard horse keeping and boarding barns.

Florida has taken a proactive approach to strengthening the legal protections of agricultural activity provided by its Right to Farm Act⁷⁷ in light of the pandemic.⁷⁸ Modernizing the Right to Farm Act, Florida passed an amendment that clarifies definitions, standards, and procedures to ensure that the original intent of the law would be preserved, and a viable agricultural industry would continue in Florida.⁷⁹ This amendment recognizes

⁷⁰ Ducharme, *supra* note 68.

⁷¹ Steve Guggenmos et. al., *COVID-19: The Impact on Housing and Rural America*, FREDDIEMAC (Mar. 14, 2022, 9:48 PM) https://sf.freddiemac.com/content/_assets/resources/pdf/other/covid-19_the-impact-on-housing-and-rural-america.pdf [<https://perma.cc/9GFJ-DQHT>].

⁷² *Id.* at 120–21.

⁷³ *State’s Right to Farm Statutes*, THE NAT’L AGRIC. L. CTR. (Nov. 13, 2020), <https://nationalaglawcenter.org/state-compilations/right-to-farm/> [<https://perma.cc/FM8W-T94Y>].

⁷⁴ *Right to Farm Act*, ALEC, (Mar. 14, 2022, 11:46). <https://alec.org/model-policy/right-to-farm-act/> [<https://perma.cc/JD7W-C3YB>].

⁷⁵ *Nuisance*, JUSTIA, (Mar. 14, 2022, 11:49 PM), <https://www.justia.com/real-estate/home-ownership/owning-a-home/nuisance/> [<https://perma.cc/2PWP-SKHB>].

⁷⁶ *State’s Right to Farm Statutes*, *supra* note 73.

⁷⁷ FLA. STAT. § 823.14 (2021).

⁷⁸ S.B. 88, 123rd Reg. Sess. (Fla. 2021) (enacted).

⁷⁹ *Id.*

Florida's unprecedented growth—with residential development encroaching upon rural areas—and that due to the COVID-19 pandemic there was an increasing exodus from more densely populated areas from both within and outside the state into rural communities, potentially creating conflicts with existing legal farming activities and complimentary agritourism activities.⁸⁰

In the arena of preserving land use for lawful horse keeping, there is much more work to be done. An effective goal would be to increase the number of villages, cities, towns, and counties throughout the U.S. that show deference to equestrians in zoning. To put it plainly, if there is nowhere—or an insufficient number of places—that it is legal to keep a horse, private ownership of these special creatures will cease. The first pillar of supporting private horse ownership by securing land use rights is thus of primary importance in supporting horse ownership. An undertaking to pass new equine laws on any level of government must take this pillar into consideration if it truly has the goal of improving the welfare of horses. Education is a key to expanding horse keeping rights. State and national organizations can assist with this endeavor by publicizing the wealth of zoning possibilities that are already in effect and assisting local equestrian groups to institute horse-friendly zoning in their communities.

II. SECOND PILLAR: LEGAL PROTECTION OF RIGHTS TO ENGAGE IN HORSE-RELATED ACTIVITIES

To thwart the erosion of rights and threats to the freedom to engage in activities with horses, equine owners must be aware of how legislation that affects them originates. Equine law is a subset of animal law. Legislation considered to be animal law is regularly initiated either by animal rights—or animal welfare—advocates.⁸¹ Animal rights advocates' goal is to give animals an equal footing under the law with humans.⁸² Their position is that animals should not be used by people for any reason—food, labor,

⁸⁰ *Id.*

⁸¹ See *Anthropomorphism is the Greatest Threat to Animal Welfare*, PROTECT THE HARVEST (Mar. 15, 2022, 12:27 AM), <https://protecttheharvest.com/news/anthropomorphism-greatest-threat-animal-welfare> [<https://perma.cc/LD5X-88X2>].

⁸² *Id.*

or entertainment.⁸³ This philosophy goes as far as to abnegate private ownership of animals altogether.⁸⁴ Allowing animal rights advocates to be the main drivers of animal-related law is problematic on many levels. Usually these drafters do not own—and do not have experience with—the type of animal or animal use that they seek to regulate, limit, or eliminate.⁸⁵ Due to lack of education or experience, they are prone to anthropomorphize what they see and misinterpret animal behavior.⁸⁶ Moreover, their approach to lawmaking is wholly theoretical, because the prohibitions they endorse are free of any impact on their own lives.⁸⁷ They are simply dictating what others must do. For people and organizations of that philosophical bent and extreme view, it is completely irrelevant if the restrictive laws they draft make it too complicated or expensive to own the animal the law applies to.⁸⁸

This is not to say that banning or restricting certain activities by law is never warranted. There are certainly situations where bans and restrictive laws are unavoidable. Yet an overemphasis on the rights of animals to the exclusion of their owners' rights has led to an imbalance. Moreover, drafters of laws that ban or restrict certain activities concerning animals should not do so without working closely with owners of those animals.

Animal-related legislation may also be drafted by animal welfare advocates.⁸⁹ Animal welfare advocates are concerned with improving animals' quality of life, while respecting the traditional notion of animal ownership.⁹⁰ Unfortunately, because animal rights proponents also describe their work as for animal welfare, it is often difficult for the public to differentiate between advocate

⁸³ *What is the Difference Between Animal Rights and Animal Welfare*, PETA (Mar. 15, 2022, 12:40 AM) <https://www.peta.org/about-peta/faq/what-is-the-difference-between-animal-rights-and-animal-welfare> [<https://perma.cc/FYP3-7FRD>].

⁸⁴ Linda Rodriguez McRobbie, *Should We Stop Keeping Pets? Why More and More Ethicists Say Yes*, THE GUARDIAN (Aug. 1, 2017, 11:24 AM) <https://www.theguardian.com/lifeandstyle/2017/aug/01/should-we-stop-keeping-pets-why-more-and-more-ethicists-say-yes> [<https://perma.cc/F8WF-3Z2F>].

⁸⁵ See PROTECT THE HARVEST, *supra* note 81.

⁸⁶ *Id.*

⁸⁷ McRobbie, *supra* note 84.

⁸⁸ *Id.*

⁸⁹ Hannah Goldstein, *What's the Difference Between Animal Rights and Animal Welfare?*, WORLD ANIMAL PROT. (June 11, 2021), <https://www.worldanimalprotection.us/blogs/whats-difference-between-animal-rights-and-animal-welfare>. [<https://perma.cc/N2Q2-Y949>].

⁹⁰ *Id.*

organizations with moderate goals of reform, and those with the hidden agenda of ending animal ownership altogether.⁹¹ Further blurring the distinction between the two, the Associated Press Stylebook suggested that use of the phrase “animal welfare activist” should be preferred over the use of “animal rights activist”.⁹²

The animal rights groups put much effort into changing an animal’s position as property under the law, but they do little or nothing to prepare for the consequences of that change. They do not raise money for, purchase land for, volunteer to care for, or in any other way plan to support all the sanctuaries that the newly ownerless animals would need to shift into. Ultimately, the animals may end up in a worse position than before activists began to “help” these animals.⁹³ The situation can be likened to the difficulties involved in placing a child into the foster care system. Animal rights activists are so focused on getting the animals out of the abusive environment that they lose sight of the fact that it is possible they are unwittingly transferring them into ultimately inferior conditions.

Compounding the problems and resulting in further loss of freedom is that although a fair number of animal welfare advocates express the desire to act in the interests of the animal, they may unknowingly support laws which decrease the ability to own an animal by overly focusing their efforts on drafting restrictive laws (laws setting forth the do nots).⁹⁴ There is very little motivation for animal law drafters to create permissive legislation (laws setting forth the dos) which protect and support animal ownership—ensuring that animals will have loving homes.⁹⁵ There is also inadequate horse-owning community

⁹¹ See, e.g., *Griffith Park Pony Rides Threatened: Animal Extremists Want to “Just Say Whoa”*, PROTECT THE HARVEST, <https://protecttheharvest.com/news/griffith-parks-pony-rides-threatened-animal-extremists-want-to-just-say-whoa> (last viewed Dec. 21, 2021) (quoting a Los Angeles operator whose business has been targeted by protestors that, “[t]hese people protesting against the ponies really know nothing about equine science or horses. They have no idea about our operation and it comes down to a fundamental difference or that they are philosophically against people riding horses.”) [<https://perma.cc/PJV4-BRNQ>].

⁹² Merrill Perlman, *Don’t Forget These Changes to the AP Stylebook*, COLUMBIA JOURNALISM REV. https://www.cjr.org/first_person/dont_forget_these_changes_to_the_ap_stylebook.php (last viewed Dec. 22, 2021) [<https://perma.cc/BXP8-BF6R>].

⁹³ See *id.*

⁹⁴ See *id.*

⁹⁵ See *id.*

involvement in creating and advocating for legislation. Despite these challenges, there are some notable pro-horse owner legislative victories.⁹⁶ This section examines different types of laws that permissively support the second pillar—the right to ride and use horses.

A. State Laws Limiting Liability

The preeminent equine law protecting the right to engage in equine activity at the state level relates to limitation of liability. Recognizing that equine activity inherently has an element of danger, legal protection for horse owners and event operators from lawsuits stemming from working with, being in proximity to, or riding horses has been established.⁹⁷ The state laws commonly referred to as Equine Activity Liability Acts (“EALAs”) can be thought of as permissive laws because they grant a measure of freedom and security to engage in equine-related activity. EALAs protect the right to ride and use horses by limiting lawsuits over horse-related injuries and accidents when certain conditions are met.

Out of all fifty states, California and Maryland are the only two that do not have this protection in place.⁹⁸ However, there are solid reasons that these two states may not adopt EALAs. The Maryland Horse Council issued a statement detailing the reasons that an EALA wouldn’t be appropriate in Maryland, mainly arguing that the state’s contributory negligence law provides sufficient protection.⁹⁹ California’s

⁹⁶ See, e.g., Heidi Walson, *Detailed Discussion of the Equine Activity Act*, ANIMAL LEGAL & HIST. CTR. (2003) <https://www.animallaw.info/article/detailed-discussion-equine-activity-liability-act> [<https://perma.cc/9SS5-83DS>].

⁹⁷ Julie Fershtman, *New Cases Show Strength of State Equine Activity Liability Laws*, EQUINE L. BLOG (July 22, 2019), <https://www.equinelawblog.com/new-cases-equine-liability-laws> [<https://perma.cc/8PJ2-S5SA>]; See also *Map of Equine Activity Liability Statutes*, MICH. STATE UNIVERSITY’S ANIMAL LEGAL & HIST. CTR., <https://www.animallaw.info/content/map-equine-activity-liability-statutes> (last viewed Dec. 22, 2021) [<https://perma.cc/6Q92-TV7K>].

⁹⁸ *Id.*

⁹⁹ *Maryland Horse Council’s Position on Equine Liability Laws*, THE EQUIERY (July 17, 2018), <https://equiery.com/maryland-horse-councils-position-on-equine-liability-laws> [<https://perma.cc/8WCN-PFYF>].

rationale is that courts have sufficiently protected horse owners from liability on the theory of “assumption of the risk.”¹⁰⁰

B. State Laws Protecting the Right to Work Animals

Although an EALA may be the only equine law that comes to mind, there are other new laws protective of the right to engage in activity with horses on the horizon. For instance, there is an active movement to legislatively counteract the banning of horse-drawn carriage rides across the country.¹⁰¹ Horse-drawn carriages have already been banned from thirteen U.S. cities; and ban proposals are pending in seven more cities.¹⁰² The enacted bans are ostensibly for the benefit of the animals, but those businesses involved with working animals (such as horse-drawn carriage rides) are already licensed, inspected, and highly regulated. Furthermore, the American Association of Equine Practitioners (“AAEP”) supports the use of horses in urban environments.¹⁰³

Similar attacks are being made on western riding disciplines, including attempts to severely limit rodeos in Los Angeles.¹⁰⁴ Elsewhere in the Los Angeles area, commercial pony rides are under attack as purportedly inhumane.¹⁰⁵ Left unchecked, the incremental outlawing of horse-related activity

¹⁰⁰ Julie Fershtman, *Our State Has No Equine Activity Liability Act – Are We Worse Off?*, EQUINE L. BLOG (Nov. 11, 2021), <https://www.equinelawblog.com/michigan-no-equine-liability-act> (discussion of two California cases) [<https://ccperma.cc/R2N2-TBA5>].

¹⁰¹ Brandon Kirkwood, *Victory! Chicago Bans Horse-Drawn Carriages After NYC Incident*, VEGANNEWS (May 6, 2020), <https://vegannews.press/2020/05/06/chicago-bans-horse-carriages/> [<https://perma.cc/TJN9-TY7N>].

¹⁰² Lizzy Rosenberg, *Here’s Why Chicago’s Horse-Drawn Carriage Ban is Important*, GREEN MATTERS (Apr. 27, 2020), <https://www.greenmatters.com/p/horse-carriage-ban-chicago> [<https://perma.cc/M2QS-S68X>].

¹⁰³ *Position Statement on the Use of Horses in Urban Environments* (2020), AM. ASS’N OF EQUINE PRACTITIONERS, (last updated 2020) <https://aaep.org/position-statement-use-horses-urban-environments-2020> [<https://perma.cc/ADH3-9VYC>].

¹⁰⁴ Elizabeth Chou, *LA City Council Calls for Ban on the Use of Electric Prods, Spurs and Other Instruments in Rodeos*, DAILY NEWS, (last updated Feb. 24, 2021, 3:34 pm) <https://www.dailynews.com/2021/02/23/la-city-council-calls-for-ban-on-the-use-of-electric-prods-spurs-and-other-instruments-in-rodeos> [<https://perma.cc/FP25-VWQ3>].

¹⁰⁵ *Griffith Park Pony Rides Threatened: Animal Extremists Want to “Just Say Whoa”*, PROTECT THE HARVEST, <https://protecttheharvest.com/news/griffith-parks-pony-rides-threatened-animal-extremists-want-to-just-say-whoa> (last viewed Dec. 21, 2021) (quoting a Los Angeles operator whose business has been targeted by protestors that, “[t]hese people protesting against the ponies really know nothing about equine science or horses. They have no idea about our operation and it comes down to a fundamental difference or that they are philosophically against people riding horses.”) [<https://perma.cc/PJV4-BRNQ>].

can only be expected to continue to advance. For instance, if fixed spurs did end up banned from Los Angeles rodeos as proposed,¹⁰⁶ could the use of the same spurs for dressage, events or hunter/jumper disciplines could be the next target of activists?¹⁰⁷ Connecting the dots, horse owners are faced with the reality that horse shows, clinics, historical reenactors on horseback, horse racing, riding schools, equi-tourism (Grand Canyon mule rides, dude ranches), polo matches, horses in parades and honor guards for funerals or police patrols may not ultimately survive unless action is taken.¹⁰⁸

1. *The Battle of the Bans*

To counter the mounting calls for curtailing horse-related activities, some states have taken the initiative to try to stop the bans by filing Working Animal Protection Act (WAPA) bills.¹⁰⁹ These bills follow a model that Mindy Patterson of the Cavalry Group helped author initially for Missouri, and they provide for certain activities involving animals to be regulated at the state level and prevent them from being outlawed at the local level.¹¹⁰ In short, WAPA bills fight fire with fire; banning the bans.¹¹¹ This particular approach uses restrictive language, rather than using broader permissive language (which generally grants more freedom). In this case it is necessary because it is in response to, and blocking, other restrictions. The WAPA bills do specify that the power to regulate via health, safety and zoning laws still rests at the local level.¹¹² Two states, Arkansas and Oklahoma,

¹⁰⁶ *Los Angeles to Ban Use of Electric Prods and Spurs at Rodeos*, PATCH (Feb. 23, 2021), <https://patch.com/california/los-angeles/los-angeles-ban-use-electric-prods-spurs-rodeos> [<https://perma.cc/3GW9-WN9L>].

¹⁰⁷ *Is Dressage Cruel to Horses? the Sport and Training Examined*, HORSE RACING SENSE, <https://horseracingsense.com/is-dressage-cruel-horses-sport-training/> (last viewed Mar. 14, 2022) [<https://perma.cc/V5J2-6FVW>].

¹⁰⁸ *See, e.g., Horse riding to be dropped from modern pentathlon*, REUTERS (Nov. 3, 2021), <https://www.reuters.com/lifestyle/sports/horse-riding-be-dropped-modern-pentathlon-report-2021-11-03/> [<https://perma.cc/K56D-42NY>].

¹⁰⁹ *Getting Ahead of the Animal Rights Movement- Working Animal Protection Act*, PROTECT THE HARVEST, <https://protecttheharvest.com/news/getting-ahead-of-the-animal-rights-movement-working-animal-protection-act/> (last viewed Mar. 14, 2022) [<https://perma.cc/6JGX-WFND>].

¹¹⁰ *Working Animal Protection Act is Now Law in Oklahoma and Arkansas*, THE CAVALRY GRP. (May 13, 2021), <https://www.thecavalrygroup.com/Working-Animal-Protection-Act> [<https://perma.cc/T8YA-XZGV>].

¹¹¹ *See*, PROTECT THE HARVEST, *supra* note 109.

¹¹² H.B. 3728, 102nd Reg. Sess. (Ill. 2021).

have made it to the finish line, passing WAPA bills into law.¹¹³ However, WAPA bills filed in Kentucky,¹¹⁴ Montana,¹¹⁵ Texas,¹¹⁶ Illinois,¹¹⁷ Missouri¹¹⁸ and Maryland¹¹⁹ have not yet been put in force. Maryland's approach is slightly different from the other states, as the language in the Maryland bill sought to prohibit counties or municipalities from enacting laws to restrict or prohibit the transportation of certain animals for education, exhibition, competition or entertainment.¹²⁰

WAPA bills ban the bans but allow regulation of businesses involving animals at the state level. This is in lieu of local bans in a concerted effort to avoid loss of 1) the homes for the animals whose work helps contribute to their care; 2) the economic benefit derived from the business; and 3) opportunities for the public to view, interact with and learn about animals they wouldn't otherwise be exposed to.¹²¹ A WAPA strikes an appropriate regulatory compromise between the need for regulation of the animal owners' use of an animal and the animal's welfare.¹²²

Oklahoma's version of the WAPA bill recognized that the right of Oklahomans to engage in agritourism activities is ingrained in the historical fabric of the state, and affirmed the intent of the legislature to preserve such activities for future generations of Oklahomans.¹²³ The law, which took effect on November 1, 2021, asserts that:

the rights of Oklahomans to engage in agritourism activities shall not be banned by any county, municipality, state agency or political subdivision. Agritourism activities will only be engaged in a lawful manner pursuant to the Oklahoma Horse Racing Act and in compliance with health and safety zoning requirements, as well as health and

¹¹³ THE CAVALRY GRP., *supra* note 110.

¹¹⁴ S.B. 175, 2020 Reg. Sess. (Ky. 2020).

¹¹⁵ H.B. 379, 66th Sess. (Mont. 2019).

¹¹⁶ H.B. 543, 87th Sess. (Tex. 2021).

¹¹⁷ H.B. 3728, 102nd Sess. (Ill. 2021).

¹¹⁸ S.B. 159, 101st Sess. (Mo. 2021).

¹¹⁹ H.B. 880, 439th Sess. (Md. 2019).

¹²⁰ *Id.*

¹²¹ THE CAVALRY GRP., *supra* note 110.

¹²² PROTECT THE HARVEST, *supra* note 109.

¹²³ 2021 OKLA. H.B. 1620 (enacted May 10, 2021).

safety regulations, by the state and local governments.¹²⁴

Agritourism activities are defined in the new law as those activities utilizing livestock or poultry for entertainment or educational purposes; specifically including horseback riding, horse-drawn carriage rides, livestock and poultry shows, petting farms, rodeos, activities that historically involved the utilization of working animals and other substantially similar activities.¹²⁵

Arkansas' new law provides that the right to utilize a working animal for the benefit and welfare of the working animal, or the individual the working animal serves, is guaranteed.¹²⁶ In force as of July 28, 2021, it states that an ordinance or resolution shall not be enacted by a municipality that terminates, bans, effectively bans, or creates an undue hardship relating to the job or use of a working animal or animal enterprise.¹²⁷

The new state law defines a working animal as a nonhuman animal used for the purpose of performing a specific duty or function in commerce or animal enterprise, including without limitation: human service, transportation, education, competition, or exhibition.¹²⁸ It does not alter state laws or rules that regulate animal care, public health, or public safety; nor does it prohibit a municipality from establishing or altering an ordinance regarding animal care, public health, or public safety.¹²⁹

These two forward-thinking states now fortify protection for animal-based businesses and agritourism. For horse owners in Arkansas and Oklahoma, the right to hold horse shows and clinics is assured.¹³⁰ Considering the very sizable presence of the horse show industry in Florida and California, it would certainly be sensible for these two states to also safeguard the jobs and

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ ARK. CODE ANN. § 14-54-1105 (2021).

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ ARK. CODE ANN. § 14-54-1105 (2021); 2021 OKLA. H.B. 1620 (enacted May 10, 2021).

income generated from horse shows by filing protective WAPA bills.¹³¹

2. Criminalizing the Interference with Horse-Related Activities

In addition to filing a WAPA bill, Maryland has taken other legislative action to protect equine activity by criminalizing interference with horses.¹³² Unfortunately, the law is necessary because protestors sometimes attempt to stop equine-related activities that they disapprove of by running onto a racetrack, or by blocking the path of a carriage horse, or even by entering the ring during an equestrian competition and causing a disturbance.¹³³ As with the WAPA model rule, the Maryland law is restrictive.¹³⁴ While enacting a restrictive law provides less freedom than enacting a permissive one, circumstances dictate the choice of a restrictive approach to overcome an existing problem. The law criminalizes such acts which maliciously interfere with a horse used for racing, breeding, competition, or other lawful activity as a misdemeanor.¹³⁵

While pressure mounts for restrictive laws (like the horse-drawn carriage bans) across the country, other uses of horses in enterprises such as entertainment are also coming under attack.¹³⁶ It doesn't take much imagination to anticipate that with greater success will come a desire to move on to more and broader targets; with activists likely to set their sights on banning use of horses in entertainment; and banning competitions such as horse shows altogether.¹³⁷ Because of the perilous precedent being set, more legislative protection for horse owners along the lines of the WAPA bills or criminalization of interference with horse-related activities is necessary.

¹³¹ FL. DEPT OF AGR. & CONS. SERV., FL. HORSE INDUS. (2022) <https://www.fdacs.gov/Agriculture-Industry/Horses-Equine/Florida-Horse-Industry> [https://perma.cc/6397-GHK3]; AM. HORSE COUNCIL, *Economic Impact of the United States Horse Industry* (2017) <https://www.horsecouncil.org/resources/economics/> [https://perma.cc/4WM6-UXU6].

¹³² MD. CODE ANN., CRIM. LAW § 10-620 (LexisNexis 2021).

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *See Rodeos*, PETA (2022) <https://www.peta.org/issues/animals-in-entertainment/cruel-sports/rodeos/> [https://perma.cc/HC2H-6L6Q].

¹³⁷ *Id.*

C. State Laws Providing Legal Protection for Other Rights

The framing of a law in terms of affirmation of a right to do something is used by drafters of legislation when statutory preservation of a specific right is desired.¹³⁸ A non-equine example is the state of Maine’s “Right to Food” constitutional amendment, passed in November of 2021.¹³⁹ It declares that all individuals have a natural, inherent, and unalienable right to grow, raise, harvest, produce and consume food of their own choosing for their own nourishment, sustenance, bodily health, and well-being.¹⁴⁰ It underlines a person’s ability to grow or raise their own food, and by doing so, short-circuits attempts to forbid consumption of animals.¹⁴¹

This format for legislation deployed to support horse ownership is found in states around the country and is illustrated in the following categories:

- 1) a Right to Ride on the Road (every person riding an animal or driving any animal-drawn vehicle upon a highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle);¹⁴²
- 2) a Right to Ride on Public Land (access shall not be denied on trails and roads designated by the state for horseback riding);¹⁴³ and
- 3) a Right to Volunteer to Maintain Public Trails (establishment of an Adopt A Trail program to allow volunteer groups to assist in maintaining and enhancing trails on state-owned land).¹⁴⁴

Stabilizing the freedoms horse owners enjoy with their animals could be accomplished by bringing even more of the “right to” type of bills before state legislatures. An aspect of horse owner rights in need of support was brought to light during the pandemic, when boarder barns shut their doors during the initial

¹³⁸ See, e.g., *Guinn v. Legislature*, 71 P.3d 1269 (Nev. 2003).

¹³⁹ ME. CONST. amend. art. I § 25.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² NEV. REV. STAT. ANN. § 484B.103 (LexisNexis 2021).

¹⁴³ MO. REV. STAT. § 8.890 (2021).

¹⁴⁴ 20 ILL. COMP. STAT. ANN. 805/805-45 (LexisNexis 2021).

stages of quarantine; not allowing owners access to their animals to ride or visit, and also not allowing professionals in for certain services like massage therapy and chiropractic adjustments.¹⁴⁵ A law specifying that horse owners are allowed access to their personal property (their horses) even in the midst of a quarantine may be needed. One potential model for this could be California's recently approved "Ag Pass" law which took effect on in January of 2022.¹⁴⁶ This law allows livestock owners who have received an "Ag Pass" to go into areas closed to the public due to tornado, storm, flood, fire, or other natural disaster in order to feed, water or transport the animals.¹⁴⁷

D. Federal Laws Protecting Right to Ride

In 2005, the Right-to-Ride Livestock on Federal Lands Act was proposed.¹⁴⁸ The purpose of the bill is to preserve the use and access of pack and saddle stock animals on national lands. Examples of national lands include: wilderness areas, national monuments, and other areas administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service. where there is a historical tradition of such use. Ultimately the Senate declined to pass the bill.

Eleven years later, legislature enacted The National Forest System Trails Stewardship Act to boost volunteerism and partnerships in trail maintenance on federal lands.¹⁴⁹ Supporting the rights of volunteers to help keep trails open is an essential factor in advocating for horse-related activities. Considerably, this law protects the right to ride by ensuring that bridle trails can remain open by virtue of volunteer efforts, despite the lack of funding required for maintenance costs.

After examination of these state and federal initiatives, it is evident that there is considerable white space available for

¹⁴⁵ See, e.g., Emily Walters, *Covid-19 Guidelines: Equine Chiropractors*, MCTIMONEY ANIMAL THERAPY (Dec. 5, 2020), <https://www.mctimoneyanimaltherapy.co/blog/2020-5-11-covid-19-guidelines-equine-chiropractors/> ("I can finally return to work as an Equine Chiropractor!!") [<https://perma.cc/C97Y-WUAM>].

¹⁴⁶ 2021 CAL. ADV. LEGIS. SERV. 609, A.B. 1103 (enacted).

¹⁴⁷ CAL. AGRIC. CODE § 2503 (West 2022).

¹⁴⁸ Right-to-Ride Livestock on Federal Lands Act of 2005, H.R. 586, 109th Cong. (2005).

¹⁴⁹ H.R. 845, 114th Cong. (2016).

creating many more laws to protect the right to use and ride horses. One of the barriers to doing so is that horse owners have difficulty becoming involved in legislative matters. Time constraints involved in caring for their horses, participating in horse-related activities, and working to support their horse-related expenses leave little time for advocacy by the typical equestrian. If they do surmount their time constraints to get involved, it is to revolt against a proposed restrictive law. The success achieved in defeating such bills squanders energy that otherwise would be put into proactively working to expand their rights as horse owners. In many circumstances, an equestrian may be unruffled as yet another activity enjoyed with a horse is forbidden by a restrictive law, justifying the diminishment of freedom as palatable since they were not engaging in that particular activity themselves.¹⁵⁰ The apathy of equestrians to threats to other equine-related disciplines than their own has been described as a harmful “better them than us” attitude.¹⁵¹ Compounding equestrians’ abstention from involvement in the legislative process is the lopsided balance of voter power on horse-related issues.¹⁵² Passing pro-horse owner legislature is nearly impossible when there is a majority of non-horse owners.¹⁵³ Unfortunately, the loudest voices for bans and restrictions are frequently those who neither own nor have any equestrian experience.¹⁵⁴

The surge in restrictive laws will inhibit a range of activities that horse owners can partake in. The end result of an ever-growing set of restrictions will be to thwart or even prevent private ownership of horses altogether.¹⁵⁵ Immediate action is therefore necessary to remedy the unbalanced situation presently created by the surfeit of restrictive laws.¹⁵⁶ Bolstering the second pillar of horse ownership rights will restore an appropriate

¹⁵⁰ C.J. Garland, *Working Together – The Western Horse Industry*, W. JUST. https://b62996ef-39a0-412e-a992-beb092c4d11c.filesusr.com/ugd/2eb17e_b98e195a43334bf9bb86d467770b8f92.pdf?index=tr ue (last viewed Dec. 22, 2021) [<https://perma.cc/SY7Y-E9JV>].

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ C.J. Garland, *Working Together – The Western Horse Industry*, W. JUST. https://b62996ef-39a0-412e-a992-beb092c4d11c.filesusr.com/ugd/2eb17e_b98e195a43334bf9bb86d467770b8f92.pdf?index=tr ue (last viewed Dec. 22, 2021) [<https://perma.cc/SY7Y-E9JV>].

balance. In some circumstances, the solution may be use of a restrictive law to stem the anti-private horse ownership tide as discussed in Section IIB. However, as equestrians become more invested in the legislative process, they must initially consider creating permissive bills to protect themselves. Building upon the momentum that has already begun at the state and federal level, the potential for progress in solidifying a horse owner's rights is endless.

III. THIRD PILLAR: MISCELLANEOUS LAWS SUPPORTIVE OF HORSE OWNERSHIP

The categories of laws which indirectly support horse owners, horse ownership and use, constitute the third pillar for supporting horse owner rights. These laws do not confer or confirm any freedoms, but yet undergird horse ownership in other ways.¹⁵⁷ They may influence public support by casting an image of the industry and private ownership in a positive light, as with commemorative days or state license plates.¹⁵⁸ They may provide funding for equine activities, as with checkoff programs or state license plates.¹⁵⁹ Alternatively, they can support horse ownership by regulating and stabilizing the process of purchasing a horse.¹⁶⁰

A. Assessments

States have developed various methods to amass money for the equine industry by setting aside a small portion of certain fees.¹⁶¹ Whatever mechanism a particular state has chosen to adopt has the end result of assistance and support for horse ownership.¹⁶² Consequently, this category of laws is an important part of the legislative armor for horse owners and for equine welfare.¹⁶³

In 2003, Illinois became the first state to approve an equine checkoff program whereby an assessment of 5 cents per

¹⁵⁷ *E.g.*, 510 ILL. COMP. STAT. 67/25 (2021) (creating grants to support equine activity).

¹⁵⁸ *E.g.*, WYO. STAT. ANN. § 31-2-213 (2021).

¹⁵⁹ *E.g.*, COLO. REV. STAT. § 42-3-227 (2021).

¹⁶⁰ *E.g.*, KY. REV. STAT. ANN. § 230.357 (LexisNexis 2022).

¹⁶¹ *See, e.g.*, 510 ILL. COMP. STAT. 67/25 (2021).

¹⁶² *See* ILLINOIS EQUINE PROMOTION BOARD, <https://iepb.org> (last viewed Dec. 24, 2021).

¹⁶³ *Id.*

\$50 bag or \$2 per ton of horse feed sold is deposited into a dedicated fund.¹⁶⁴ The money collected is distributed via grants administered by the Illinois Equine Industry Research and Promotion Board to support equine activity.¹⁶⁵ Other states including Maryland,¹⁶⁶ North Carolina,¹⁶⁷ and Virginia¹⁶⁸ subsequently passed legislation to allow collection of money to support equine-related endeavors via checkoff programs. Two additional states have started the process to approve a checkoff program to benefit their equine industries. Michigan has a pending Equine Promotion Act bill to create an analogous program.¹⁶⁹ There have been some objections, but the Michigan bill is similar to other enacted legislation which allows persons who do not wish to participate in the program to request a refund.¹⁷⁰ South Carolina also has a pending bill, introduced in January of 2021.¹⁷¹

Some states don't have checkoff programs, but instead tap into racetrack wagers to financially support the equine industry. Take for example Idaho, which has a mechanism for fundraising by collecting a small percentage of the money wagered on horse races within the state.¹⁷² The amount set aside is deposited into an equine education account, which is distributed to the University of Idaho for the purpose of funding a horse census survey for the state.¹⁷³ Alternatively, Kentucky taxes portions of pari-mutuel horse race wagers and commits that money to various breed development funds.¹⁷⁴ In New Jersey, the Equine Advisory Board is responsible for distributing funds collected

¹⁶⁴ 510 ILL. COMP. STAT. 67/25 (2021).

¹⁶⁵ ILL. EQUINE PROMOTION BD., <https://iepb.org> (last viewed Dec. 24, 2021) [<https://perma.cc/7KDN-6CEB>].

¹⁶⁶ MD. CODE ANN., AGRIC. § 6-107.2 (LexisNexis 2021) (establishing an assessment of up to \$2 per ton of commercial equine feed sold in Maryland is distributed by the Maryland Horse Industry Board).

¹⁶⁷ N.C. Gen. Stat. Ann. § 106-825 (West, 2021).

¹⁶⁸ VA. CODE ANN. § 3.2-1713 (2021) (“To date the Virginia Horse Industry Board has distributed over \$2 million dollars in grants”); *About the Virginia Horse Industry Board*, VA. HORSE INDUS. BD. <https://www.vhib.org/about-the-board> (last viewed Mar. 31, 2022) [<https://perma.cc/HE5G-LKUJ>].

¹⁶⁹ H.B. 5239, 2019 Leg., 100th Sess. (Mich. 2019).

¹⁷⁰ *Equine Industry Hanging Hopes on New House Bill*, MICH. FARM NEWS (Jan. 29, 2020), <https://www.michiganfarmnews.com/equine-industry-hanging-hopes-on-new-house-bill> [<https://perma.cc/7R6U-FFVJ>].

¹⁷¹ H.B. 3544, 124th Gen. Assemb., Reg. Sess. (S.C. 2021).

¹⁷² IDAHO CODE § 54-2513 (1990).

¹⁷³ IDAHO CODE § 57-818 (2014).

¹⁷⁴ KY. REV. STAT. ANN. § 138.510 (LexisNexis 2021).

from horse racing proceeds.¹⁷⁵ Colorado created financial support for the equine industry with the creation of the Colorado Horse Development Authority (CHDA), which is authorized to assess an amount not in excess of \$3 whenever a brand inspection fee is collected.¹⁷⁶ The state formally recognized that because it is in the public interest to ensure a stable and expanding horse industry, the CHDA is permitted to distribute the funds to stimulate research, provide education, and promote the horse industry in the state.¹⁷⁷ Virginia also established a horse industry board responsible for the promotion and economic development of the horse industry.¹⁷⁸ Funding for the Virginia Horse Industry Board's activities is obtained by an assessment of \$1.50 on each equine infectious anemia (Coggins) test performed in the state.¹⁷⁹

Another way money is collected to support equines is through programs which allow a donation by state income tax checkoff. Two examples of tax checkoffs to support equines are Colorado's Unwanted Horse Alliance¹⁸⁰ and New Mexico's Horse Shelter Rescue Fund.¹⁸¹ And, as recently as December 2021, New York passed its own piece of legislation creating a tax checkoff to fund retired racehorse aftercare facilities.¹⁸²

As the above examples illustrate, there are many distinct possibilities to choose from when creating a seamless state-wide system of raising money to benefit the horse industry, horse owners and their horses.

B. Commemorative Days

Designation of specific days to honor horses have been included as part of a comprehensive system of support for horse ownership because they provide an opportunity to put positive messaging of the advantages of horse ownership into the public eye. Federally, December 13 was officially designated as the

¹⁷⁵ *What is the NJ Equine Advisory Board?*, E. STATES DRESSAGE & COMBINED TRAINING ASSOC., <https://www.esdcta.org/home/resources/njeab/what-is-the-nj-equine-advisory-board> (last viewed Dec. 22, 2021) [<https://perma.cc/HH34-GRMB>].

¹⁷⁶ COLO. REV. STAT. § 35-57.8-109 (2021).

¹⁷⁷ COLO. REV. STAT. § 35-57.8-103 (2021).

¹⁷⁸ VA. CODE ANN. § 3.2-17.07 (2021).

¹⁷⁹ VA. CODE ANN. § 3.2-17.07 (2021).

¹⁸⁰ COLO. REV. STAT. § 39-22-3803 (2021).

¹⁸¹ N.M. STAT. ANN. § 77-2-32 (2021).

¹⁸² N.Y. TAX LAW § 209-O (LexisNexis 2022).

National Day of the Horse in 2004.¹⁸³ This honor was bestowed by a simple Senate resolution, which did not require approval of the House, nor signature of the President.¹⁸⁴ As such it expresses a sentiment of the Senate but doesn't have the force of law.¹⁸⁵

Some states have followed suit and also designated a specific day by state statute. For example, Illinois has designated March 5th as its Day of the Horse.¹⁸⁶ Other states honor horses and the equine industry by Governor's proclamation, or by legislative resolution. One example is Maryland, which honored horses and the equine industry by making October 2021 Horse Month.¹⁸⁷ Another example can be found in Louisiana, which designated "Youth Equine Day" in 2014 by a state Senate resolution.¹⁸⁸

The creation of an equine-related commemorative day by proclamation or resolution has a lower barrier for approval than creating a new state law.¹⁸⁹ However, in the long run a proclamation or a resolution is a less efficient commemorative tool because the effort of submitting the paperwork must be repeated each year. Although memorializing a commemorative day by state law requires more effort, it is a more permanent approach.

However, getting a state law passed is only the beginning of promotional efforts. A commemorative day must be associated with some action to be meaningful and memorable. Simply announcing the day may have some marketing advantage but may be insufficient to capture anyone's attention in order to have a lasting effect. On the federal level, a national organization might oversee specific action, and on the state level a horse council would be well-suited to ensure that the special day

¹⁸³ S. Res. 452, 108th Cong. (2004) (enacted).

¹⁸⁴ *Commemorative Days Weeks, and Months: Background and Current Practice*, CONG. RSCH. SERV. <https://sgp.fas.org/crs/misc/R44431.pdf> (last updated June 27, 2019) [<https://perma.cc/AAF3-7VVM>].

¹⁸⁵ *Id.*

¹⁸⁶ 5 ILL. COMP. STAT. 490/196 (2021).

¹⁸⁷ *Governor Hogan Proclaims October 'Maryland Horse Month'*, MD DEPT. OF AGRIC. (Sept. 29, 2021) <https://news.maryland.gov/mda/press-release/2021/09/29/governor-hogan-proclaims-october-maryland-horse-month-2/> [<https://perma.cc/9E6J-U935>].

¹⁸⁸ Mike G. Milazzo, *Youth Equine Day at the Capitol*, THE EQUINE REP. (Mar. 8, 2016) <https://theequinereport.com/2016/03/youth-equine-day-at-the-capitol> [<https://perma.cc/M73D-XCTN>].

¹⁸⁹ *See, e.g., Commemorative Days Weeks, and Months: Background and Current Practice*, CONG. RSCH. SERV. <https://sgp.fas.org/crs/misc/R44431.pdf> (last updated June 27, 2019) [<https://perma.cc/AAF3-7VVM>].

receives appropriate notice. For instance, a state's commemorative day could be the day that grants are announced for states that have checkoff programs or other fundraising mechanisms. A social media, photo, art, or essay contest with announcement of winners on the commemorative day could engage horse owners as well as the public at large. Other potential tie-ins include giving a police or therapy horse an honorary certificate of service; or disseminating educational messages about the health and economic benefits of horse ownership on the special day.

Although not set by law, there are other examples of honorary days which are celebrated annually, shown in Table I.

TABLE I: Other Honorary Days

Date	Name	Comments
April 26	National Help a Horse Day	ASPCA created to help neglected and abused horses ¹⁹⁰
July 15	National I Love Horses Day	Highlights the importance of horses ¹⁹¹
July 17	National Meet a Horse Day	Created by the American Horse Council to invite horse owners and individuals in the equine industry to introduce the general public to horses ¹⁹²
Fourth Saturday of July	National Day of the Cowboy	Designed to honor and preserve cowboy culture ¹⁹³

¹⁹⁰ *National Help a Horse Day*, NAT'L TODAY, <https://nationaltoday.com/national-help-horse-day> (last viewed Dec. 24, 2021) [<https://perma.cc/F297-NDWK>].

¹⁹¹ *National I Love Horses Day*, NAT'L TODAY, <https://nationaltoday.com/national-i-love-horses-day> (last viewed Dec. 24, 2021) [<https://perma.cc/MR4J-PXYE>].

¹⁹² Ashley Harkins, *Celebrate National Meet a Horse Day on July 17th*, AM. HORSE COUNCIL, <https://www.horsecouncil.org/press-releases/celebrate-national-meet-a-horse-day-on-july-17th> (last viewed Dec. 24, 2021) [<https://perma.cc/6R4F-A38N>].

¹⁹³ *Campaign Status & Volunteers*, NAT'L DAY OF THE COWBOY, https://nationaldayofthecowboy.com/?page_id=110 (last viewed Dec. 22, 2021) (“[M]ovement to officially denote a Day of the Cowboy by law across the US; the fifteen states that have passed legislation to set aside an official Day of the Cowboy are:

In addition to the commemorative days mentioned above, annual days are also set aside for equine industry lobbying at the capitol in states including Maryland¹⁹⁴ and Michigan¹⁹⁵. Federal lobby days are also hosted by the American Horse Council at Congress.¹⁹⁶

C. Specialty License Plates

It's easy to recognize Wyoming's official state license plate from its depiction of a cowboy on a bucking horse.¹⁹⁷ Although the purchase of a Wyoming plate doesn't directly benefit horse owners or the equine industry, it does showcase the legacy of equestrians in the state, and subliminally create goodwill for horses.¹⁹⁸ In contrast to the Wyoming plate, close to half of U.S. states have enacted legislation for the express purpose of creating an option to purchase specialty vehicle license plates that subsidize equine-related industries.¹⁹⁹ The fee for the purchase of a specialty license plate varies from state to state, and the portion of that fee set aside by the state for the organization varies as well.²⁰⁰ In general, each specialty plate purchased translates into an amount in the range of \$10-\$50 for its sponsoring organization.²⁰¹ Specialty license plates are an

Wyoming, California, New Mexico, Arizona, Oklahoma, Oregon, Mississippi, Kansas, Virginia, Texas, Idaho, Indiana, Arkansas, North Dakota, and Montana") [<https://perma.cc/2T6B-U3HX>].

¹⁹⁴ *Maryland Horse Industry Day 2021*, MD. HORSE, <https://marylandhorse.com/index.php/events/maryland-horse-industry-day-2018-annapolis-2> (last viewed Dec. 22, 2021) (discussing that Maryland's Horse Council hosts an annual Horse Industry Day to educate elected officials about the benefits the industry brings to the state) [<https://perma.cc/JPC2-GH4R>].

¹⁹⁵ *Equine Legislative Day*, MICH. HORSE COUNCIL, <https://www.michiganhorsecouncil.com/equine-legislative-day.html> (last viewed Dec. 22, 2021) (discussing that Michigan's Horse Council hosts an annual Equine Legislative Day) [<https://perma.cc/8GLK-AAM6>].

¹⁹⁶ Ashley Harkins, *AHC Announces October 28th Virtual Congressional Fly-In*, AM. HORSE COUNCIL (Sept. 30, 2021), <https://www.horsecouncil.org/press-releases/ahc-announces-october-28th-virtual-congressional-fly-in> (discussing that the American Horse Council holds a Congressional Fly-In to meet with congressional members and staff to discuss horse-related issues) [<https://perma.cc/BQ9S-UXBW>].

¹⁹⁷ *See Bucking Horse & Rider*, WYO. SECY OF STATE, <https://sos.wyo.gov/Services/BHRHistory.aspx> (last viewed Mar. 3, 2022) [<https://perma.cc/7EAN-JADK>].

¹⁹⁸ *See id.*

¹⁹⁹ *See infra* Table II.

²⁰⁰ *Id.*

²⁰¹ *Id.*

excellent example of legislation that is permissive. The plates have a dual function, promoting horse ownership visually, while also being a means of fundraising.²⁰²

Table II lists states that have legislatively approved a specialty plate with a horse depicted on it, to benefit equines and/or the equine industry. Some states even have more than one horse-oriented plate, each targeting assistance to different segments of the equine industry. The states that have specialty plates, the particular organizations, and the types of projects that qualify for a portion of the specialty license plate fee are noted where applicable.

TABLE II: Equine-Related State Specialty License Plates

State	Plate / Statute	Beneficiary Organization	Use for Funds
Alabama*	<i>Stewards of the Land</i> ALA. CODE § 32-6-500 (2021)	Alabama Cattlemen's Foundation	youth scholarships and educational programs
Colorado	COLO. REV. STAT. § 42-3-227 (2021)	Colorado Horse Development Authority	research & education supporting Colorado horse industry
Delaware	DEL. CODE ANN. tit. 21, § 2139W (2016)	Delaware Equine Council	promote, protect, and enhance keeping equines; support equine endeavors
Florida (2)	<i>Discover Florida Horses</i> FLA. STAT. § 320.08058 (69) (2021)	Florida Agricultural Center &	continued development of park & improvements of

²⁰² See generally *Why Your Business Needs a Vanity License Plate?*, POSTAL XPRESS N MORE, <https://www.postalxpressnmore.com/mva-services-ellicott-city/why-your-business-needs-a-va-nity-license-plate/> (last viewed Mar. 3, 2022) [<https://perma.cc/TV2Z-FLDZ>].

	<i>Horse Country</i> FLA. STAT. § 320.08058 (64) (2021)	Horse Park Authority PCMI Properties Inc.	existing infrastructure grants for programs using horses and other livestock to redirect at-risk youth
Georgia	GA. CODE ANN. § 40-2-86 (36) (2016)	Agricultural Commodity Commission for Equines	promote equine industry; support Youth Day and speakers at the Agricultural Expo
Idaho	IDAHO CODE § 49-420D (2021)	Appaloosa Horse Club	youth horse- related programs
Illinois	2021 Ill. Laws 383	Horsemen's Council of Illinois	promote equine activity and education
Kansas	KAN. STAT. ANN. § 8-1,173 (2021)	Kansas Horse Council	supports trail maintenance, scholarships, equine welfare
Kentucky (2)	KY. REV. STAT. ANN. § 186.164 (2021) KY. REV. STAT. ANN. § 186.162w (2021)	KEEP Foundation Kentucky Horse Council	advocacy for the KY horse industry programs for trails, health & welfare, horse owners, & legislation
Louisiana	LA. REV. STAT. § 47:463.151 (2021)	Louisiana Performance Horse	scholarships

		Association	
Mississippi (3)	<i>Saddle Up</i> MISS. CODE ANN. § 27-19-56.142 (2021) MISS. CODE ANN. § 27-19-56.30 (2021)* MISS. CODE ANN. § 27-19-56.525 (2021)	Mississippi State Equine Association Mississippi Cattlemen's Foundation Mississippi Trotting Association	horse welfare, benefit horse owners, equine associations, and businesses Educational programs and research for the cattle industry association
Missouri	<i>Fox Trotter</i> MO. REV. STAT. § 301.3126 (2021)	Fox Trotting Horse Breed Association	Both plates are provisional; not enough ordered yet to produce
Nevada	<i>Support of Rodeos</i> NEV. REV. STAT. ANN. § 482.37938 (LexisNexis 2021)	Reno Rodeo Foundation & Nevada High School Rodeo Association	funds scholarships
New Jersey	<i>State Animal</i> 2020 Legis. Bill Hist. NJ S.B. 89	NJ Dept. of Agriculture	support horse health, welfare & therapeutic riding programs
New York (3)	<i>Ride New York</i> <i>Saratoga</i> <i>Aqueduct/Belmont/Saratoga</i> N.Y. VEH. & TRAF. LAW § 404 (Consol. 2021)	New York State Horse Council Cortez Horse Racing New York Racing Association	promotion of sport and recreation horses promote racing promote racing
North Carolina	N.C. GEN. STAT. § 20-79.4-149 (2021)	North Carolina Horse	supports horse industry

		Council	
Ohio	<i>Ohio's Horse</i> OHIO REV. CODE ANN. § 4503.553 (LexisNexis 2021)	Ohio Coalition for Animals	facilitates horse rescue/rehoming
Oklahoma	OKLA. STAT. tit. 47 §1135.5 (2021)	Oklahoma Quarter Horse Association	promotes American Quarter Horses
Pennsylvania	75 PA. CONS. STAT. § 1341 (2021)	Pennsylvania Equine Council	support PEC programs
Tennessee	TENN. CODE ANN. § 55-4-316 (2021)	Tennessee Walking Horse Breeders & Exhibitors Association	encourage expansion of breed and ensure the general welfare
Texas	<i>Houston Livestock Show & Rodeo</i> TEX. TRANSP. CODE ANN. § 504.613 (LexisNexis 2021)	Houston Livestock Show & Rodeo	scholarship
Virginia (2)	<i>Horse Enthusiasts</i> VA. CODE ANN. § 46.2- 749.18 (2021) <i>Fox Hunting</i> VA. CODE ANN. § 46.2- 749.58 (2021)	No beneficiary for either plate	
Wyoming*	WYO. STAT. ANN. § 31-2-213 (2021)	None	

*The plate has a horse image on the plate but no direct financial benefit to the equine industry

In some states, an additional source of funding for equestrians from license plate revenues is possible if the state

has a tag in its specialty license plate program that supports agriculture (“ag tag”).²⁰³ As part of agriculture, equine programs may be eligible to apply for a grant from funds collected in an agricultural development fund.

D. Horse Purchase

Buying horses is big business. At the Keeneland November Breeding Stock sale alone, \$203 million in gross sales of thoroughbreds was recorded in 2021.²⁰⁴ Clearly, there is a tremendous amount of money in equine sales.²⁰⁵ Buying a horse can be a significant transaction whether it is an elite athlete or a pleasure horse, but in many instances, the purchase may not be accompanied by a full disclosure and a written contract of sale.²⁰⁶ When there is clarity concerning all of the parties to a transaction and their compensation, it formalizes the process of buying or selling a horse.²⁰⁷ More people may be inclined to invest in an animal and give it a good permanent home if the transaction is properly memorialized.²⁰⁸

Just a few states have taken the proactive step to legislate protections for equine sales.²⁰⁹ California,²¹⁰ Kentucky,²¹¹ and Florida²¹² have laws controlling the manner of an equine sale. The Kentucky law is representative of how an owner’s investment in a potential equine partner can be protected because it requires

²⁰³ TENN. CODE ANN. § 55-4-298 (2019).

²⁰⁴ *Keeneland November Sale Closes with Gains Across the Board*, PAULICK REP., (Nov. 20, 2021, 2:24 AM), <https://www.paulickreport.com/news/bloodstock/keeneland-november-sale-closes-with-gains-across-the-board> [<https://perma.cc/93KW-A22H>].

²⁰⁵ *Id.*

²⁰⁶ *Legal Landscape of Horse Sales*, EQUINE LEGAL SOL., <https://www.equinelegalsolutions.com/legal-landscape-of-horse-sales.html> (last viewed Mar. 13, 2022) [<https://perma.cc/5J2T-2WPG>].

²⁰⁷ *Id.*

²⁰⁸ *Equine Law: Buy/Sell Agreements, Protecting Your Horse as an Investment*, MCDONALD PIERANGELI MACFARLANE, PLLC (June 12, 2019), <https://www.mpmtrialattorneys.com/blog/2019/06/equine-law-buysell-agreements-protecting-your-horse-as-an-investment/> [<https://perma.cc/VCB5-WR49>].

²⁰⁹ Whitney Allen, *Empowerment Through Education*, EQUINE TRANSACTION LAWS, https://www.usnja.org/application/files/9915/6891/4526/ETL_Booklet_Full_withInStride.pdf (last viewed Mar. 13, 2022) [<https://perma.cc/9W4Y-HUMA>].

²¹⁰ CAL. BUS. & PROF. CODE § 19525 (Deering 2021) (“there is no minimum sales price trigger for the written requirements”).

²¹¹ KY. REV. STAT. ANN. § 230.357 (LexisNexis 2022).

²¹² FLA. ADMIN. CODE ANN. r. 5H-26.004 (2008) (“there is no minimum sales price trigger for the written requirements”).

a written bill of sale signed by purchaser and seller, though in Kentucky the written bill of sale is obligatory only when the purchase price of the horse is above \$10,000.²¹³ Dual agency is prohibited unless both buyer and seller are aware of it and consent to it in writing.²¹⁴

In 2019, a bill modifying Florida's sales contract requirements was filed.²¹⁵ That bill proposed a set of ongoing horse care covenants that could optionally be included in a written bill of sale.²¹⁶ The covenants would have delineated continuing care of the horse with certain provisions including that the covenant would be annexed to the horse, would stay with the horse, and would be binding and enforceable upon all subsequent purchasers.²¹⁷ The intention was a noble one; to attempt to ensure a horse's future welfare.²¹⁸ Such covenants might potentially lessen the chances that the horse would end up homeless, but the bill was unsuccessful and did not become law.²¹⁹

Additionally, a transaction for a horse is conducted on a *caveat emptor* basis (let the buyer beware) in the U.S.²²⁰ By contrast, in Europe under certain circumstances a horse may be returned if it is found to be unsatisfactory within six months of purchase.²²¹ Recently, a European Union Directive invited member states at their discretion to extend that period from six to twelve months.²²² As with the lack of requirement to disclose all agents, the *caveat emptor* model is a deterrent to horse ownership that could be remedied by changing U.S. law.²²³

The third pillar of support for horse ownership—the miscellaneous category of laws—encapsulates a wide variety of

²¹³ Ky. Rev. Stat. Ann. § 230.357.

²¹⁴ Ky. Rev. Stat. Ann. § 230.357

²¹⁵ S. 1646, 116th Leg., 2019 Sess. (Fla. 2019) (adding new section 828.261, not enacted).

²¹⁶ S. 1646, 116th Leg., 2019 Sess. (Fla. 2019) (adding new section 828.261, not enacted).

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ Robert S. Miller, *The Sale of Horses and Horse Interests: A Transactional Approach*, 78 KY. L. J. 517, 576. (1990).

²²¹ Armand Leone, *How Consumer Purchase Protection Laws Impact Horse Sales*, HORSE NETWORK (Feb. 3, 2021), <https://horsenetwork.com/2021/02/how-consumer-purchase-protection-laws-impact-horse-sales/> [<https://perma.cc/X7KE-989V>].

²²² Council Directive, 19/771, 2019 O.J. (L 136) (EU).

²²³ Leone, *supra* note 221.

legislation to promote private horse ownership. However, there is an opportunity for additional states to move forward with adoption of these laws, based on the work of the states that have already succeeded in drafting, advocating, and passing permissive legislation.

IV. FOURTH PILLAR: LEGAL STATUS OF HORSES

To change the construct for the treatment of horses under the law, animal rights activists seek to redefine the horse-owner relationship.²²⁴ There is a multi-pronged attack underway to alter nomenclature and reposition how horses are classified under the law.²²⁵ Movement away from the premise of horses as personal property (where the owner has maximal rights and freedoms) to a new theory whereby the horse is an equal to a human owner under the law, is the ominous goal. An attempt to reach that goal through engineering a gradual shift of public perception has been employed. A horse owner's freedoms might initially be decreased as horses are moved from being legally defined in the livestock category to the companion animal category.²²⁶ Once horses are labeled as companion animals, a horse owners' rights may be further reduced by reframing the relationship as guardianship rather than ownership.²²⁷ Finally, the horse owner would be pushed aside, into a position of the least control, if his or her horse is redefined as a sentient being with legal personhood.²²⁸ The following section examines the semantic shift being foisted upon horse owners, and illustrate why the fourth pillar for supporting horse ownership is of utmost importance.

A. Companion Animals vs Livestock

²²⁴ Joel Stronberg, *A Horse Is a Horse of Course, Unless Given the Right to Sue – Which Could Be Good for the Environment*, RESILIENCE (Aug. 22, 2018), <https://www.resilience.org/stories/2018-08-22/a-horse-is-a-horse-of-course-unless-given-the-right-to-sue-which-could-be-good-for-the-environment/> [https://perma.cc/E2KE-FEZY].

²²⁵ *Id.*

²²⁶ *Horses as Livestock*, PROTECT THE HARVEST (2018), <https://protecttheharvest.com/news/horses-as-livestock/> [https://perma.cc/VH46-8FRJ].

²²⁷ *Position Statement on Ownership/Guardianship*, ASPCA, <https://www.aspc.org/about-us/aspc-policy-and-position-statements/position-statement-ownershipguardianship> (last viewed Mar. 12, 2022) [https://perma.cc/44C4-ARYS].

²²⁸ *Id.*

The first prong of attack in changing the legal status of horses is redefining a horse as a companion animal or pet, rather than livestock. To change that conventional categorization is incredibly problematic, first because the living area required for large animals is vastly greater than for small animals.²²⁹ Secondly, canine or feline companion animals live inside a home with their owners, but equines require a separate outdoor living space outside the home. For these reasons, laws that define living conditions, such as a companion animal's shelter or care, fit horses very poorly.

If horses are not clearly defined as livestock by state law, or if there is a conflict where some portions of the law define them as companion animals and other portions define them as livestock, clarification is necessary.²³⁰ Kentucky has had significant foresight in this regard by amending several portions of its laws which related to agricultural land use or agricultural activities in 2017.²³¹ Changes were made in order to specify horses as livestock to be covered by the law in a number of sections.²³² Since Kentucky is a state where the equine industry plays a major role in the economy, strengthening horse-friendly laws was clearly warranted.

Action has also been taken in Illinois to legislatively reinforce proper categorization. Horses are classified as livestock in every section of Illinois law, except for the Humane Care for Animals Act, where they were classified as companion animals along with dogs and cats.²³³ This opened the door for potential confusion over whether or not agricultural protections like the Farm Nuisance Suit Act (FNOSA)²³⁴ should be extended to cover horse keeping.²³⁵ This confusion motivated the Horsemen's

²²⁹ See generally Carmella Abel, *How Much Space Do Horses Need? Horse Care Guide*, EQUINE HELPER, <https://equinehelper.com/space-do-horses-need/> (last viewed Mar. 12, 2022) [<https://perma.cc/3NF4-8SAM>].

²³⁰ See, e.g., Bailee Woolstenhulme, *Horses Officially Categorized as Livestock, Thanks to 2018 Farm Bill*, UTAH FARM BUREAU (Feb. 26, 2019), <https://www.utahfarmbureau.org/Article/Horses-officially-categorized-as-livestock-thanks-to-2018-Farm-Bill#:~:text=Being%20classified%20as%20a%20pet,from%20a%20typical%20companion%20animal> [<https://perma.cc/TW2X-3SQW>].

²³¹ See, e.g., 2017 KY. S.B. 139(2) (redefining the term "agricultural use" as it relates to livestock).

²³² 2017 KY. S.B. 139.

²³³ 510 ILL. COMP. STAT. 70/2.01a (2021).

²³⁴ 740 ILL. COMP. STAT. 70/3 (2021).

²³⁵ 740 ILL. COMP. STAT. 70/2 (2021).

Council of Illinois to advocate for an amendment to the Farm Nuisance Suit Act, specifically adding horse boarding and horse keeping to the definition of uses of the land included in the term “farm.”²³⁶

This issue of the legal categorization horses must be addressed in both federal and state law. There is at least one example of deterring a category shift by congressional action. The Protecting Animals with Shelter Act was created within the Agricultural Improvement Act of 2018.²³⁷ The PAWS Act established a grant program so that organizations providing shelter and housing assistance to domestic violence victims could accommodate victims with pets.²³⁸ In the Act, horses are listed independently of pets in the types of animals qualifying for the program.²³⁹ This legislation helps maintain the bright line distinction of horses as separate from companion animals or pets under the law.

B. Personal Property vs Person under the Law

Many people confuse animal rights organizations with animal welfare organizations, as previously described. While the two groups overlap in many respects, the animal rights organizations are the ones who promote the view that animals should be treated equally as humans under the law.²⁴⁰ Yet the disadvantages of this view to the animals themselves are poorly understood by its defenders.

This concept of animals as sentient beings who can sue their owners began as a movement within the court system.²⁴¹ While this article focuses on legislation, it is important to be aware that if case law develops, it is likely that legislation will also be proposed. A recent court case attempted to upend the current status of animals as personal property, to instead make animals persons under the law.²⁴²

²³⁶ 740 ILL. COMP. STAT. 70/2 (2021).

²³⁷ Agriculture Improvement Act of 2018, Pub. L. No. 115-334.

²³⁸ *Id.* at tit. XII, § 12502.

²³⁹ *Id.*

²⁴⁰ Karyn Malinowski, *The Horse Industry's Responsibility to Animal Welfare*, RUTGERS UNIV. (2004), https://esc.rutgers.edu/fact_sheet/the-horse-industrys-responsibility-to-animal-welfare/ [https://perma.cc/2AXB-YCJP].

²⁴¹ *E.g.*, Stronberg, *supra* note 224.

²⁴² *Justice v. Vercher*, No. 18CV17601, 2018 WL 11189952, *1 (Or. Cir. Ct. May 1, 2018), *appeal docketed*, No. A169933 (Or. Ct. App. Jan. 22, 2019).

In Oregon, the Animal Legal Defense Fund (ALDF) filed a lawsuit²⁴³ seeking to recover economic damages for a horse's pain and suffering due to neglect.²⁴⁴ The ALDF in *Justice v. Vercher*, named the neglected horse as a plaintiff to the lawsuit in furtherance of the quest for legal personhood of animals. In 2018, the case was dismissed because the horse lacked capacity to sue.²⁴⁵

Self-owned animals, as a concept under the law, is fraught with difficulties.²⁴⁶ Some potential negative ramifications of making an animal a person under the law include the possibility that a pet could sue an owner in court, or that owners may not freely be able to make medical decisions for pets such as euthanasia.²⁴⁷ As discussed in Sec. IIID above, European laws are deferential to the horse buying process.²⁴⁸ If the rules change and horses are no longer considered to be property, the sale of a horse in the E.U. may lose the advantage of consumer protection laws. Without the possibility to either return a horse, or to be reimbursed if it is unsuitable, the brisk international equine sales market will suffer.

A ripple of unintended consequences would trigger if animal personhood efforts succeed.²⁴⁹ The slew of legislative fixes which might be needed as a result of animal personhood have not yet been contemplated.²⁵⁰ The effect on equine sales is just one example of a law that might need revision.²⁵¹ It is also disconcerting to note that there is scant evidence of thought or preparation beyond making the change itself for the immense destabilization that altering the law would cause.²⁵² One legal analyst has framed the issue particularly well, stating that

²⁴³ *Id.*

²⁴⁴ Complaint at 13, *Justice v. Vercher*, 2018 WL 11189952 (Or. Cir. Ct. 2018) (No. 18-CV-17601).

²⁴⁵ *Vercher*, 2018 WL 11189952 at *1. (An appeal was filed which has not yet been adjudicate.)

²⁴⁶ See PROTECT THE HARVEST, *supra* note 226.

²⁴⁷ *Id.*

²⁴⁸ Leone, *supra* note 221.

²⁴⁹ See PROTECT THE HARVEST, *supra* note 226.

²⁵⁰ *Id.*

²⁵¹ See generally Miller, *supra* note 220.

²⁵² See Richard L. Cupp, Jr., *Commentary: Considering the Private Animal and Damages*, 98 WASH. U. L. REV. 1313, 1324 (2021) (indicating that efforts like the Vercher lawsuit "represent a societally harmful approach to animal protection").

[i]f courts adopted the ALDF's theory in *Vercher*, a massive pool of other animals as potential plaintiffs would be created. If lawyers then asserted that even some of those animals were neglected or abused, animal rights activists could flood the courts with a huge volume of lawsuits and assert to represent the new legal persons. Further, if animal legal personhood were accepted in this context, litigation would doubtlessly spread quickly to lawsuits challenging biomedical research on such "persons," any commercial use of such "persons," and even pet ownership of such "persons."²⁵³

Unanswered questions include how animals would be managed, kept, or how their survival would be ensured as independent, non-owned entities and what infrastructure would be used to handle the finances and legal needs of animals once they are equivalent to humans in legal standing.²⁵⁴ It must be acknowledged that domesticated animals are unable to function in the capacity of legal persons or as independent entities, apart from having an owner.²⁵⁵ In all likelihood, the only thing a change in the legal status of animals would accomplish would be a transfer of rights from the owners, to any number of animal rights groups.²⁵⁶ Would there be any requirement for the appointed persons who must manage or control the animal's legal personhood to have experience in housing, training, handling, or caring for those animals? Without any safeguards, the predictable outcome is that the animal will ultimately most likely fall into less competent hands, and simply be placed in a sanctuary rather than have a home as an individually cherished pet.²⁵⁷ It goes without saying that transfer or removal to

²⁵³ Richard L. Cupp, Jr., *Commentary: Considering the Private Animal and Damages*, 98 WASH. U. L. REV. 1313, 1324 (2021) (indicating the author believes that efforts like the *Vercher* lawsuit "represent a societally harmful approach to animal protection").

²⁵⁴ *Id.* at 1316.

²⁵⁵ *Issue: Animals' Legal Status*, THE ANIMAL LEGAL DEF. FUND, <https://aldf.org/issue/animals-legal-status/> (last viewed Mar. 13, 2022) (explaining that, "animals are still defined within the United States legal system as property – more akin to inanimate objects than living beings.") [<https://perma.cc/732M-E392>].

²⁵⁶ *Id.*

²⁵⁷ *See Captive Animals*, THE ANIMAL LEGAL DEF. FUND, https://aldf.org/focus_area/captive-animals/ (last viewed Mar. 13, 2022) (discussing the

sanctuaries would only be possible if plans were made to fund the necessary purchases of land, veterinary services, and food for all the animals who would become ownerless.²⁵⁸

C. Ownership vs Guardianship

As part of the long-term strategy to eliminate the private ownership of pets (including horses) as property under the law, an intermediate step is the attempt at rebranding animal ownership as guardianship.²⁵⁹ Referring to someone as an animal's guardian expresses what seems to be a harmless sentiment implying protection of a beloved pet.²⁶⁰ However, in the long run, if this movement represents an advancement towards formal recognition of non-human personhood in the legal sense as discussed in Sec. IVB above, the name change might not be as innocuous as it seems.²⁶¹

Since the campaign to replace the name “animal owner” began in 2000, animal rights activists have had some success; convincing some cities, counties, and states to refer to “animal guardians” rather than animal owners in laws and codes.²⁶² The ASPCA has announced the approval of the guardian term.²⁶³ By contrast, the American Veterinary Medical Association firmly opposed the name change, stating that “Any change in terminology describing the relationship between animals and owners, including “guardian”, does not strengthen this

Endangered Species Act and the transfer of animals held in poor conditions to sanctuaries) [<https://perma.cc/2PSJ-Q7J3>].

²⁵⁸ See Mckenzie Griffler, *Choosing the Right Site for Your Sanctuary*, THE OPEN SANCTUARY PROJECT (Feb. 2, 2022), <https://opensanctuary.org/article/choosing-the-right-site-for-your-farmed-animal-sanctuary/> [<https://perma.cc/P962-3BEG>].

²⁵⁹ Richard L. Cupp, Jr., *supra* note 253 at 1318.

²⁶⁰ Dr. Patty Khuly, VMD MBA, *Pet Guardianship vs. Ownership: Are You Your Pet's Owner... or Guardian?*, EMBRACE PET INSUR. (June 21, 2017), <https://www.embracepetinsurance.com/waterbowl/article/pet-guardianship-vs-ownership> [<https://perma.cc/MK9Q-KV78>].

²⁶¹ See *id.* (discussing the obligations of pet guardianship versus pet ownership and the inability to forgo certain medical treatments under guardianship laws.)

²⁶² R. Scott Nolen, *After More Than a Decade, Has Pet Guardianship Changed Anything?*, AM. VETERINARY MED. ASSOC. (Mar. 18, 2011), <https://www.avma.org/javma-news/2011-04-01/after-more-decade-has-pet-guardianship-changed-anything> (describing the movement as having lost momentum and as ineffective) [<https://perma.cc/MEQ8-4A79>].

²⁶³ *Position Statement on Ownership/Guardianship*, AM. SOC'Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, <https://www.aspc.org/about-us/aspc-policy-and-position-statements/position-statement-ownershipguardianship> (last viewed Dec. 20, 2021) [<https://perma.cc/5TWR-LBN9>].

relationship and may, in fact, harm it.²⁶⁴ Such changes in terminology may adversely affect the ability of society to obtain and deliver animal services and, ultimately, result in animal suffering.”²⁶⁵ The American Kennel Club also took a stand against the re-phrasing of ownership, and even produced an informational pamphlet outlining their position.²⁶⁶ On the other hand, the American Horse Council and other national horse associations like the American Quarter Horse Association have not formally weighed in on this particular issue.²⁶⁷

While the initiative to call animal owners “animal guardians” instead continues to percolate, another effort at linguistic change has begun.²⁶⁸ On March 22, 2021 a number of animal rights advocates called for an update to the Associated Press Stylebook, recommending that the words “it”, or “which” or “that” should no longer be used when writing about animals.²⁶⁹ Instead, they recommended that AP’s Stylebook guidance should be to use “he”, “she”, “who”, or “they” when referring to animals.²⁷⁰ In so doing, the proponents believe the changes would help animals be personified instead of objectified.²⁷¹ This may seem reasonable, but again, if it is part of the larger movement to gain legal non-human personhood for animals, extreme caution is in order.²⁷²

Rephrasing horse ownership as guardianship, designating horses as persons under the law, and identifying horses as companion animals instead of livestock are all distinctly first-

²⁶⁴ *Ownership v. Guardianship*, AM. VETERINARY MED. ASSOC., <https://www.avma.org/resources-tools/avma-policies/ownership-vs-guardianship> (last viewed Mar. 13, 2022) [<https://perma.cc/9BMV-QEEZ>].

²⁶⁵ *Id.*

²⁶⁶ *The Dangers of “Guardianship”*, AM. KENNEL CLUB <https://images.akc.org/pdf/GILEG4.pdf> (last viewed December 20, 2021) [<https://perma.cc/T5FF-4XB2>].

²⁶⁷ *See Issues*, AM. HORSE COUNCIL, <https://www.horsecouncil.org/issue/> (last viewed Mar. 13, 2022) [<https://perma.cc/7LDC-SV35>]; *News and Publications*, AM. QUARTER HORSE ASSOC., <https://www.aqha.com/web/aqha/news-and-publications/news-and-publications-overview> (last viewed Mar. 13, 2022) [<https://perma.cc/Q5JP-GQ3T>].

²⁶⁸ Scott Simon, *Opinion: Animals Deserve Gender Pronouns, Too*, NAT’L PUBLIC RADIO (Apr. 3, 2021, 7:54 AM ET), <https://www.npr.org/2021/04/03/984008349/opinion-animals-deserve-gender-pronouns-too> [<https://perma.cc/6SA7-K2UL>].

²⁶⁹ Paula Froke, *Joint Open Letter to the Associated Press Calling for a Change in Animal Pronouns – Animals Are a Who, Not a What*, IN DEF. OF ANIMALS (Mar. 22, 2021), <https://idausa.lattecdn.com/assets/files/assets/uploads/openletterapstylebook.pdf> [<https://perma.cc/9EU2-5U6E>].

²⁷⁰ Scott Simon, *Opinion: Animals Deserve Gender Pronouns, Too*, NAT’L PUBLIC RADIO (Apr. 3, 2021, 7:54 AM ET), <https://www.npr.org/2021/04/03/984008349/opinion-animals-deserve-gender-pronouns-too> [<https://perma.cc/6SA7-K2UL>].

²⁷¹ *Id.*

²⁷² *Id.*

world notions. In much of the rest of the world, horses are undeniably work animals and property of owners.²⁷³ The animals are employed out of necessity and in furtherance of sustaining everyday human life.²⁷⁴ In fact, in third-world countries, over 100 million working horses, donkeys and mules provide support to approximately 600 million people.²⁷⁵ To this contingent of the world's population, making changes in the legal status of horses is completely incongruous with the practicalities of daily life.²⁷⁶

To avoid the legal and semantic shifts directing away from private horse ownership, more must be done to ensure that horses remain personal property and livestock under the law. Organizations that represent horse owners should consider issuance of statements to affirm horses as livestock; and denunciations of any attempts to rebrand horse owners as guardians and any attempts to equate horses with humans under the law.

V. LOOKING TO THE FUTURE: DESIRABLE INITIATIVES TO FURTHER STRENGTHEN THE RIGHTS OF HORSE OWNERS

A study of the four pillars of support for horse ownership reveals there are many areas of the law that need to be amended to ensure that horse owner's fundamental rights to keep, ride, and otherwise enjoy their animals are fortified.²⁷⁷ In this last section, a blueprint for initiating future permissive legislation is provided.

²⁷³ The Brooke, *Improving the Lives of Working Animals in the World's Poorest Communities: Annual Review 2011/12*, THEBROOKE.ORG, <https://www.thebrooke.org/sites/default/files/Strategy%2C%20annual%20reports%20and%20accounts/Annual-Review-2011-12.pdf> (last viewed Mar. 13, 2022) [<https://perma.cc/9YGA-2M6X>].

²⁷⁴ *Id.*

²⁷⁵ Delphine Valette, *Invisible Workers*, THEBROOKE.ORG (October 2015) <https://www.thebrooke.org/research-evidence/invisible-workers-economic-contribution-working-equids-livelihoods> [<https://perma.cc/56WH-HBUQ>].

²⁷⁶ *Id.*

²⁷⁷ See also Craig M. Smith, *Detained Discussion of Horse Related Legal Issues*, MICH. STATE UNIV. COLLEGE OF LAW, ANIMAL L. & HIST. CTR. (2009), <https://www.animallaw.info/article/detailed-discussion-horse-related-legal-issues> [<https://perma.cc/T2QS-ZY8D>].

A. State & Local Level

It is apparent that some states and local governments have been more proactive than others in ensuring continued private horse ownership and use.²⁷⁸ Therefore, good templates for proactive laws exist which haven't yet been uniformly adopted.²⁷⁹ Based on the previous successes, there are opportunities for legislative activism by and for horse owners abound which do not require the creation of bills from scratch.²⁸⁰ States or local governments that have not yet taken affirmative action to pass permissive laws can follow in the footsteps of those states that have already taken action, and legislatively backfill any holes where freedoms are not protected with the types of laws discussed in this paper.²⁸¹

National organizations such as the Coalition of State Horse Councils²⁸² and the American Horse Council are perfectly situated to establish best practices and encourage such efforts, offer oversight, and keep track of progress.²⁸³ Each state's Horse Council should be encouraged to form a Legislative Committee; and annually review progress towards passage of the same targeted set of horse owner friendly laws. Yearly awards could be given out to honor legislative success. For states without a Horse Council, another statewide organization should be identified that can lead pro-horse owner efforts. The approach taken to date has not produced consistent results, but with more dedicated and thoughtful effort, greater freedom for U.S. horse owners can be achieved under state laws. A pivot from a singular focus on opposing the unfriendly bills proposed by animal rights groups, to originating pro-horse owner legislation is called for.

²⁷⁸ See Michigan State University College of Law, *Horses: Related Statutes*, ANIMAL L. & HIST. CTR., <https://www.animallaw.info/statutes/species/horses> (last viewed Mar. 13, 2022) [<https://perma.cc/RF6R-9JFG>].

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ See *id.*

²⁸² See, e.g., COAL. OF STATE HORSE COUNCILS, <https://www.coalitionofstatehorsecouncils.org> (last viewed Dec. 19, 2021) [<https://perma.cc/W3JD-HYVH>].

²⁸³ See, e.g., *Our Mission*, COAL. OF STATE HORSE COUNCILS, <https://www.coalitionofstatehorsecouncils.org> (last viewed Mar. 13, 2022) [<https://perma.cc/W3JD-HYVH>]; AM. HORSE COUNCIL, *Our Mission*, <https://www.horsecouncil.org/> (last viewed Mar. 13, 2022) [<https://perma.cc/C2LL-85C4>].

Table III is a compilation of the types of state legislation which would be helpful in promoting and protecting horse ownership. The list is not exhaustive, but it may be a good starting point to begin a conversation about an every-state strategy. States that wish to provide more comprehensive support for the equine industry and horse ownership have a wealth of initiatives available to choose from. Working from a defined set of objectives (such as those listed in Table III) will increase the likelihood that the legal environment will improve for horse owners. This list can be considered as an appropriate base from which to build out a full legislative strategy.

TABLE III: Checklist of Horse Owner Friendly State Legislative Initiatives

Type of Law	Comments
Commemorative Day	Promote and raise awareness
Specialty License Plate	Fundraising mechanism
Assessment	Fundraising mechanism
Working Animal Protection Act	Vitally important to stem the tide of outlawing activity with horses
Horses defined as livestock	If horses are inconsistently defined, amend ag activity protective laws to specifically include horses
Written Bill of Sale requirement	Adds transparency and certainty to the process of purchasing of a horse
Right to Ride in state parks	Protects ability to have a place to ride
Right to Volunteer to Maintain Trails in state parks	Helps ensure trails can remain open even if state funding is unavailable for maintenance
Equestrian Overlay District	To protect long term rights to home horse keeping

The Animal Legal Defense Fund annually ranks all the states in terms of “Animal Protection Laws” whereby the states with the most enacted restrictions are ranked highly, and states

with the least enacted restrictions are ranked low.²⁸⁴ However, this particular ranking does not necessarily capture the full picture of a state's favorable legal environment for support of animal welfare, because it does not include permissive laws that encourage and foster animal ownership (the types of laws discussed in Sections I-III of this paper).²⁸⁵ Animals are protected and the environment for animals is advantageous when they have good and stable homes, so permissive, pro-animal ownership statutes should be counted too.²⁸⁶ A separate state ranking system for the pro-animal owner laws should be created to comprehensively evaluate legislation of each state.

Another possibility to bridge the knowledge gap between horse owners and non-horse owning legislators would be to have an organization or coalition of horse owners provide a score for potential new legislation that reflects its impact to animal ownership. Designation of a bill as positive (good for horses while, or by, securing horse owner freedoms), neutral (good for horses and not detrimental to horse ownership) or negative (good for horses at the expense of rights of horse owners) may be helpful to raise awareness of flaws of a proposal that can be adjusted in the drafting stage. Such information could help horse welfare advocates better achieve the shared goal of horse welfare and help them to gain more support for more effective bills that address long and short-term effects. A tool to improve communication between animal rights advocates and animal owners like a scoring system could potentially actuate consensus. It stands to reason that an openness to the input of equestrians will result in a more robust horse welfare bill that gains wider acceptance and has a smoother path to passage into law.

B. Federal Level

The permissive laws enacted to date are a patchwork of state-based initiatives.²⁸⁷ But there is a need for federal

²⁸⁴ 2020 US State Animal Law Protection Rankings, ANIMAL LEGAL DEF. FUND, <https://aldf.org/project/us-state-rankings> (last viewed Mar. 8, 2022) [<https://perma.cc/DJB4-DT26>].

²⁸⁵ See *id.*

²⁸⁶ See *Government and Animal Rights*, RESPONSIBLE POLICIES FOR ANIMALS <https://www.rpaforall.org/literature/government-and-animal-rights/> (last viewed Mar. 8, 2022) [<https://perma.cc/4F2S-QZ7D>].

²⁸⁷ Brenda J. Lutz & James M. Lutz, *Interest Groups and Pro-Animal Rights Legislation*, 19 J. OF HUMAN-ANIMAL STUDIES, 261 (2011),

protection to bring an increased level of certainty to horse-related freedoms.²⁸⁸ The American Horse Council is the predominant national organization that specializes in advocacy on the federal level and can be counted on by horse owners desiring legislative breakthroughs.²⁸⁹ The question to be addressed is: where should federal legislative efforts be focused going forward?

One potential objective may be passage of a uniform regulation covering the buying and selling of horses. Especially when the animal is an expensive purchase for breeding, racing or competition. It would be helpful if the U.S. followed the European model allowing horse return if defects are discovered within six months of the sale.²⁹⁰

A second objective may be related to recognition. The federal Century Farms Act of 2017 requires the Department of Agriculture to establish a program to recognize: (1) any farm that a state Department of Agriculture or similar statewide agricultural organization recognizes as a Century Farm, or (2) a farm or ranch that has been operated continuously and owned by the same family for at least 100 consecutive years.²⁹¹ The bill recognized that over thirty states had established Century or Centennial Farm designations and awards, and that agricultural producers perform public services that should be recognized and rewarded.²⁹² Although the bill was proposed, it wasn't approved by Congress.²⁹³ A similar bill honoring equine-related facilities

<https://www.animalsandsociety.org/wp-content/uploads/2016/05/lutz.pdf>
[<https://perma.cc/UP8F-DW8U>].

²⁸⁸ See generally Lafcadio H. Darling, *Legal Protection for Horses: Care and Stewardship or Hypocrisy and Neglect?*, 6 ANIMAL L. 105, 113 (2000) (discussing the faults of current horse protection laws).

²⁸⁹ See *Saddle Up With the American Horse Council's Congressional Cavalry*, AM. HORSE COUNCIL
<https://docs.google.com/viewerng/viewer?url=https://www.horsecouncil.org/wp-content/uploads/2020/09/HID-Congressional-Cavalry-2020.pdf&hl=en> (last viewed Mar. 11 2022) [<https://perma.cc/4QZJ-QCWL>].

²⁹⁰ *Article Horse International: Consumer Protection in Europe*, EUR. EQUINE LAWYERS (Aug. 15, 2016), <https://www.europeanequinelawyers.com/consumer-protection-europe/> [<https://perma.cc/36KF-R5UQ>].

²⁹¹ Century Farms Act of 2017, S. 1805, 115th Cong. (2017) (introduced in Sept. 2017 but did not receive a vote).

²⁹² Steven K. Revickzy, *NASDA Letter Supporting Introduction of the Century Farms Act of 2017*, NASDA, <https://www.nasda.org/letters-comments-testimony/nasda-letter-supporting-introduction-of-the-century-farms-act-of-2017> (last viewed Mar. 8, 2022) [<https://perma.cc/6YA5-SK8R>].

²⁹³ *S.1805 (115th): Century Farms Act of 2017*, GOVTRACK
<https://www.govtrack.us/congress/bills/115/s1805> (last viewed Mar. 11, 2022) [<https://perma.cc/7J9L-D6EA>].

such as show grounds, polo grounds, breeding facilities, racetracks or horse rescues operating for 100 years would be advantageous. Take for example the famous Runnymede Farm in Kentucky, one such operation that has been in existence more than a century.²⁹⁴ Another worthy objective could be to press for passage of legislation like the Right to Ride bill discussed in Sec. II D.²⁹⁵

The concept of the four pillars of support can be engaged to assist the thought process involved in design of appropriate federal laws. Interested stakeholders may expeditiously choose to coordinate their efforts with the House Congressional Horse Caucus²⁹⁶ to formulate plans to introduce bills of the kinds mentioned above as well as setting other strategies for additional bills having positive impact on horse ownership. Each state's Horse Council can also be proactive by encouraging their federal representatives to join the Caucus.

C. International Protection of Horse Owner Rights

Beyond local, state, and national legislation, there are movements underway to create a global policy statement concerning animal rights and welfare.²⁹⁷ The policies may be variously referred to as declarations, treaties, or conventions.²⁹⁸ So far, none of them have made significant progress towards international adoption. Exemplary policies are summarized in Table IV below.

²⁹⁴ *History*, RUNNYMEDE FARM, <https://www.runnymedefarmky.com/history.html> (last viewed Mar. 11, 2022) [<https://perma.cc/S4YS-CPC8>].

²⁹⁵ See MO. REV. STAT. § 8.890 (2021).

²⁹⁶ See *Barr and Tonko Named Co-Chairs of the Congressional Horse Caucus*, AM. HORSE COUNCIL <https://www.horsecouncil.org/press-releases/barr-and-tonko-named-co-chairs-of-the-congressional-horse-caucus> (last viewed Mar. 11, 2022) [<https://perma.cc/6LLG-LHFM>].

²⁹⁷ See *Introduction*, THE ANIMAL WELFARE MOVEMENT <https://worldanimal.net/our-programs/strategic-advocacy-course-new/module-1/social-change/the-animal-welfare-movement> (last viewed Mar. 8, 2022) [<https://perma.cc/E6TU-37JC>].

²⁹⁸ See *generally Id.* (discussing suggestions for animal protection policies to find global success).

TABLE IV: International Animal Policy Initiatives

Name	Sponsor/ Date Initiated	Category	Representative Tenet	Status
Universal Declaration of Animal Rights ²⁹⁹	International League of Animal Rights ³⁰⁰ (1978)	Animal rights	The specific legal status of animals and their rights must be recognized by law	submitted to UNESCO with revisions in 1990; not ratified
Declaration of Animal Rights ³⁰¹	Our Planet. Theirs Too (2011)	Animal rights	Animals are not the property or commodity of humans, and are not there to use for their benefit or sustenance	signatures being collected; 20,000 individuals signed
Universal Declaration on Animal Welfare ³⁰²	World Society for the Protection of Animals (2000)	Animal welfare	Acknowledgement that the humane use of animals can have major benefits for humans	Goal is UN adoption
UN Convention on Animal	Global Animal Law Association	Animal welfare	All animals have a fundamental interest to be free – not to be	Goal is UN adoption

²⁹⁹ *Universal Declaration of Animal Rights*, ANIMAL FRIENDS CROATIA, <https://www.prijatelj-zivotinja.hr/index.en.php?id=207> (last viewed Dec. 20, 2021) [<https://perma.cc/7CB6-SYF7>].

³⁰⁰ UNION OF INT'L ASS'NS, <https://uia.org/s/or/en/1100037211> (last viewed Dec. 20, 2021) (reporting the organization as defunct) [<https://perma.cc/XFH5-FLSZ>].

³⁰¹ DECLARATION OF ANIMAL RIGHTS, <https://declarationofar.org> (last viewed Dec. 19, 2021) [<https://perma.cc/KYF2-ZJX5>].

³⁰² WORLD ANIMAL PROT., https://www.worldanimalprotection.ca/sites/default/files/media/ca_-_en_files/case_for_a_udaw_tcm22-8305.pdf (last viewed Dec. 19, 2021) [<https://perma.cc/YU3L-7PA3>].

Health and Protection ³⁰³	(2018)		confined or contained unnecessarily when appropriate alternatives exist, allowing the animals to be free in an environment that meets their needs and preferences	
International Convention for the Protection of Animals ³⁰⁴	Michigan State Univ. (1988)	Animal welfare	Any person who is the keeper of a companion animal shall have the affirmative obligation to provide the companion animal with adequate food, water, shelter and veterinary care	Draft umbrella treaty; not ratified

None of these efforts have been advanced from the position of supporting animals through protecting private animal ownership rights. Moreover, it is unlikely that any organizations or individuals representing horse owners were consulted for their input on any of these declarations. Anticipating that an international animal-related policy of some type may eventually gain wide acceptance, equestrians must either find a way to have their perspective included in the current efforts or create their own international declaration. If equine owners are not proactive in crafting their own separate international understanding, they may find themselves subject to a broader international animal agreement which is far less representative and respectful of the traditional horse-human relationship. For this reason, a global movement specifically to protect horse owners' rights, ensuring

³⁰³ UN CONVENTION ON ANIMAL HEALTH & PROTECTION, <https://www.uncahp.org> (last viewed Dec. 19, 2021).

³⁰⁴ MICH. STATE UNIV. ANIMAL L. & HIST. CTR., <https://www.animallaw.info/treaty/international-convention-protection-animals> (last viewed Dec. 20, 2021) [<https://perma.cc/P5QK-E5QD>].

private ownership of horses and horse welfare would be beneficial. It could take shape as a Universal Declaration of Horse Owner Rights that would enumerate a list of freedoms to protect the ability for private ownership and use of equines. It goes without saying that a coalition to drive such a declaration's international success would be required to pass any such international reforms. Thankfully, a international equestrian-oriented organizations that may be ideally situated in terms of power, voice, and position to take the lead in securing horse owner rights already exist.³⁰⁵ A coalition of international sport-related organizations such as the International Federation for Equestrian Sports (FEI)³⁰⁶ and the International Federation of Horseracing Authorities (IFHA)³⁰⁷ already have the standing and the open communication channels to make a real impact in this regard. These organizations should recognize and acknowledge that unless the rights and freedoms of private horse ownership are upheld, competitive equestrian sports may be forbidden altogether.

The sport organizations could be joined by non-governmental organizations that have similar or complimentary missions. One example is Brooke, an international organization started in the U.K. to help working horses and donkeys.³⁰⁸ Brooke argues horses, donkeys, and mules are invisible livestock, often overlooked in national and regional livestock planning and policy framing, despite their critical value.³⁰⁹ Brooke's mission is to significantly improve the welfare of working horses, donkeys, mules, and the people they serve. Brooke accomplishes this mission by raising funds and responsibly directing them to areas of greatest need like farrier services, veterinary assistance, help for equine victims of natural disasters, and education on best practices for care. This organization positively affects the horse-owner relationship by providing for the horse's welfare without breaking the traditionally established link of private ownership.

³⁰⁵ FEDERATION EQUESTRE INTERNATIONALE, <https://www.fei.org> (last viewed Dec. 19, 2021) [<https://perma.cc/KZ2F-37WD>]; INT'L FED'N OF HORSERACING AUTHORITIES, <https://www.ifhaonline.org> (last viewed Dec. 19, 2021) [<https://perma.cc/8EZ9-9XNN>].

³⁰⁶ FEDERATION EQUESTRE INTERNATIONALE, *supra* note 305.

³⁰⁷ INT'L FED'N OF HORSERACING AUTHORITIES, *supra* note 307.

³⁰⁸ *Invisible Livestock*, BROOKE, <https://www.thebrooke.org/sites/default/files/Advocacy-and-policy/Invisible-livestock-2019.pdf> (last viewed Dec. 19, 2021) [<https://perma.cc/4NT5-EYPC>].

³⁰⁹ *Id.*

Furthermore, an international coalition could develop a global declaration recognizing the special symbiotic relationship of horses and humans. This would acknowledge the reality of working equids as a necessity in many parts of the world and clarify that horses must be legally classified as livestock and as the property of their owners.

Another avenue to strengthening horse owner rights could be to form a non-governmental organization that could provide policy guidance to countries desiring to support horse ownership like the World Agricultural Heritage Forum does for farming.³¹⁰ The WAHF's stated mission is to promote sustainable agriculture and rural development through policy and technical assistance, networking, research, training, and education for safeguarding and dynamic preservation of the world's agricultural heritage systems.³¹¹ A similar equine-oriented organization would have the potential to influence the world for the betterment of equines.

CONCLUSION

As the subject area of equine law continues to develop, equine law practitioners and advocates should broaden their horizons to seek wholistic solutions for new pro-horse owner legislation. Drafting restrictive laws is far from the long-term answer for protection of the horse-owner relationship. The challenge that lies ahead for horse owners is to guide equine law into full maturity including acknowledgement that equine welfare can be assured when horse owner rights are given deference. In the first wave of equine law development, a concentration on legal prohibitions of certain activities for the sake of animal welfare was justifiable. However, the next wave of legislation should embrace the breadth and diversity that new permissive laws can bring to complement existing equine welfare statutes. There is good reason for considerable optimism that the next wave of laws will indeed advance in a positive direction, as awareness of the availability and utility of permissive laws grows.

A focus on promulgating permissive laws, trimming constraints, inclusion of horse owners in the legislation drafting

³¹⁰ WORLD AGRIC. HERITAGE F., <https://worldagriculturalheritage.org> (last viewed Dec. 19, 2021) [<https://perma.cc/7ADW-US9T>].

³¹¹ *Id.*

process and cognizance of the contribution and beneficial effects of horse owner rights to equine welfare are all within reach. As more equestrians are awakened to the issues and empowered to act with the help of state and national organizations, their rights and the welfare of their horses will be guaranteed.

The four pillars enumerated are a system of organized principles that can serve as the starting point for navigating the legislative drafting process. The pillars should all be continuously strengthened by new laws, as well as monitored for cracks or gaps in protection created by restrictive rules. Horse owners and equine industry advocates can utilize the successful models for state laws already on the books, and also press for stronger federal initiatives to change the legislative landscape for the better. Empowered by the conceptual tools of the four pillars of protection for horse ownership, equestrians can reclaim their position as the strongest advocates for, and top producers of, changes to the law that improve equine welfare while respecting and sustaining horse owner rights. Preservation of horse owner rights will ensure that humans and horses can continue to benefit alike from their relationship; ensuring the possibility for the outside of a horse to continue to be good for the inside of a man far into the future.