

## **U.S. Codified Laws on Illegal Slaughter and Slaughterhouses**

### **Overview**

Illegal slaughter of animals is an ongoing issue in our country today. Even with the 1958 Humane Methods of Slaughter Act (HMSA), government officials have struggled with country-wide enforcement of the law in all slaughter plants, as was seen in 2007 with the Hallmark/Westland Meat Packing Co. incident. The HMSA requires that these plants abide in a certain manner with regards to the treatment of the animals as they go through the process of being slaughtered. The United States government has two agencies that are entwined with the purpose and execution of this Act, they are Food Safety and Inspection Service (FSIS) and that works under the direction of the U.S. Department of Agriculture (USDA). Recent reports from government agencies, such as the United States Government Accountability Office (GAO), have shown that there are inadequacies in the HMSA that need to be fixed to improve efficiency.

Although The HMSA has been in effect since 1958, individual States had taken up the initiative of writing their own legislation well before then, which laid out their standards for which cattle and other animals should be treated while at the slaughtering plants.

This memo will address (1) The HMSA, (2) The history of the Act, (3) The GAO and The Office of Inspector General Report, as well as (4) State statutes on Illegal Slaughtering, and Lastly (5) What humane slaughter is.

### **I. Humane Methods of Slaughter Act**

This Bill was passed in 1958, originally, and is enforced by the USDA Food Safety and Inspection Services.<sup>1</sup> The Act requires the proper treatment and humane handling of all food animals slaughtered in slaughter plants, that are inspected by the USDA.<sup>2</sup>

A memo was released by the *Congressional Research Service* in regards to Nonambulatory Livestock and the Humane Methods of Slaughter Act, in 2008 when ill-treated cattle raised questions about enforcement of the Humane Methods of Slaughter Act.<sup>3</sup> In 2008 more than 153 million cattle, sheep, hogs, and other animals were slaughtered.<sup>4</sup>

Basic inspection procedures set by the Food Safety and Inspection Service (FSIS) requires inspectors to be present at all times when meat and poultry plants are operating.<sup>5</sup> Inspectors must observe every live animal before slaughter, both at rest and in motion, to detect signs of any disease or health problems that may show that an animal is unfit for human food.<sup>6</sup> Plants must notify FSIS when animals first arrive, and the “antemortem” (before death) inspection is to be conducted on the day of their slaughter.<sup>7</sup> Inspectors must also conduct “postmortem” (after death) inspections as well, where they are stationed at the plants along the processing line inside the slaughter plants to examine each carcass and monitor other processing activities.<sup>8</sup>

The Humane Methods of Slaughter Act (HMSA) key provision states:

“No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane ... [meaning] ... (a) in the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all

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<sup>1</sup>Becker, Geoffrey S., *Nonambulatory Livestock and the Humane Methods of Slaughter Act*, March 24, 2019. <http://nationalaglawcenter.org/wp-content/uploads/assets/crs/RS22819.pdf>.

<sup>2</sup> Id.

<sup>3</sup> United States Government Accountability Office, *Humane Methods of Slaughter Act: Actions Are Needed to Strengthen Enforcement*, February 2010. <https://www.gao.gov/assets/310/300921.pdf>.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or (b) by slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering.”<sup>9</sup>

The HMSA serves to provide guidelines for how American Slaughter houses are run in regards to the antemortem and postmortem phases of the animals life, as well as it sets standards to how these animals are treated while they are going through process.

Part (a) of §1902 ensures that when the animals are being put to death that they do not feel any pain. To do this the individuals carrying out the slaughtering must render a single blow to the animal so that it becomes insensible or unconscious. According to (a) this all must be done before the animal is ever shackled, hoisted, thrown, cast, or cut.

Part (b) reserves the rights of religious groups in that the “single blow” does not have to be done by a gun shot, electrical, or chemical means but rather they may slaughter the animal by causing the animal to lose consciousness by simultaneous severance of the animals carotid artery with a sharp instrument.

#### **A. What is being done to the Humane Methods of Slaughter Act**

In 2010, The Government Accountability Office (GAO) found that additional actions needed to be taken in order to enforce the HMSA.<sup>10</sup> Survey’s showed that there were differences across

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<sup>9</sup> Id.

<sup>10</sup>United States Government Accountability Office, *Humane Methods of Slaughter Act: Actions Are Needed to Strengthen Enforcement*.

the board, in regards to inspectors, and their handling of known violations; i.e. when an animal was not rendered insensible through acceptable procedures.<sup>11</sup> The GAO found that:

The lack of consistency in enforcement may be due in part to the lack of clarity in current FSIS guidance and inadequate training. The guidance does not clearly indicate when certain enforcement actions should be taken for an egregious act—one that is cruel to animals or a condition that is ignored and leads to the harming of animals. A noted humane handling expert has stated that FSIS inspectors need clear directives to improve consistency of HMSA enforcement. According to GAO’s survey, FSIS’s training may be insufficient. For example, inspectors at half of the plants did not correctly answer basic facts about signs of sensibility. Some private sector companies use additional tools to assess humane handling and improve performance.<sup>12</sup>

The GAO report found that with this being true, FSIS could not fully identify trends in its inspection funding and staffing for HMSA.<sup>13</sup> In addition, FSIS did not have a current workforce planning strategy for allocating limited staff to inspection activities, which included HMSA enforcement.<sup>14</sup> FSIS also did not have a strategic, operational, or performance plans for its inspection activities but does not clearly outline what their goals are, or needed resources, time frames, or performance metrics and does not have a comprehensive strategy to guide the enforcement of the HMSA.<sup>15</sup>

The USDA ensures that humane treatment and slaughter are shown to all animals that are presented for slaughter.<sup>16</sup> The FSIS is the government agency within the USDA that is responsible for ensuring that meat, poultry, and processed egg products are safe, wholesome, and

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<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> United States Department of Agriculture: Food Safety and Inspection Service, Key Facts Humane Slaughter, August 9, 2013, <https://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-humane-slaughter/key-facts-humane-slaughter> (last visited October 30, 2019).

accurately labeled.<sup>17</sup> FSIS serves also to enforce the HMSA and are empowered to take enforcement action against establishments that fail to meet humane handling requirements.<sup>18</sup>

FSIS in 2011, updated their agencies directive on the humane handling and slaughter of livestock, which further reminded personnel of the requirements, verification activities, and enforcement actions for ensuring of the humane treatment of the animals.<sup>19</sup> The update instructs personnel to notify establishments that they may choose to develop and implement an effective, systematic approach for the humane handling of animals.<sup>20</sup> FSIS also ordered an audit to be ran by the Inspector General of the USDA Office on noncompliance records, that would be used moving forward to ensure that known violations would be handled adequately and consistently.<sup>21</sup>

## **B. History of the HMSA and The Office of Inspector General Report**

In 1958 the Federal HMSA was signed into law by President Eisenhower on August 27.<sup>22</sup> The Act requires all meat companies who sell in the U.S. to provide *stunning* by either mechanical, electrical, or chemical means prior to the killing of cattle, calves, horses, mules, sheep, swine, and other livestock, in the case of slaughter for religious or ritual purposes.<sup>23</sup>

According to the Act stunning must be accomplished in a manner that is rapid and effective before the animal is shackled, hoisted, thrown, cast, or cut.<sup>24</sup> In 1978, The HMSA was expanded in a new amendment that required that cattle, sheep, swine, goats, horses, mules, and other

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<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> Animal Welfare Institute: Humane Methods of Slaughter Act, 2019. <https://awionline.org/content/humane-methods-slaughter-act> (Last visited October 28, 2019)

<sup>23</sup> Id.

<sup>24</sup> Id.

equines imported into the United States for meat consumption to be done so humanely.<sup>25</sup> This effected foreign packers who exported to the U.S., in that they now had to meet standards equal to those required of U.S. meat companies.<sup>26</sup> USDA inspectors were now given the authority to stop the slaughtering line in the plants if they observed any animal of a covered species being slaughtered or handled in a manner not consistent with the law.<sup>27</sup>

To implement the act, FSIS issued regulations for inspection personnel covering the proper maintenance of pens and ramp ways.<sup>28</sup> The act outlines how to handle livestock during unloading and movement to the stunning area, which includes the use of electric pods and other instruments as well as the methods on how to use them.<sup>29</sup> The directives that are laid out in the Act outlined to hired personnel specifically what to do if there is noncompliance.<sup>30</sup>

Since the Acts existence there has been wide spread criticisms of the effectiveness of the Bill.<sup>31</sup> In January 2006 audit report by the USDA Office of Inspector General criticized the number of FSIS antemortem inspection procedures.<sup>32</sup> These included what IOG said was the inconsistent application of procedures.<sup>33</sup> The FSIS found that at 2 of 12 slaughter plants OIG visited, 20 of 29 nonambulatory (not being able to walk around) animals slaughtered were downers “with no documentation of any acute injury.”<sup>34</sup> OIG also reported that from 1995-2005 FSIS inspectors in some plants were examining only 5%-10% of live cattle both at rest and in

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<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> Id.

<sup>28</sup> *Nonambulatory Livestock and the Humane Methods of Slaughter Act.*

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Id.

motion.<sup>35</sup> Since the report, critics continue to assert that the agencies antemortem policies are inconsistently applied and enforced among slaughter plants, and that such inspections often involve only cursory views of animals in large groups, not individually.<sup>36</sup>

In 2008 OIG issued another audit report, pertaining to what occurred at Hallmark/Westland Meat Packing Co.,<sup>37</sup> on how effective FSIS's controls were over several other BSE-related (Bovine Spongiform Encephalopathy) safeguards required at the plants.<sup>38</sup> The audit revealed that Hallmark personnel had taken deliberate actions to bypass required inspections, and that FSIS inspectors did not comply with all inspection procedures.<sup>39</sup> At the end of OIG's report they concluded that the failures of inspection that happened at Hallmark were not systematic throughout all plants and therefore Hallmark did not represent the majority of how the majority of plants were functioning.<sup>40</sup> However, the OIG report pointed to ways that the Act could be strengthened.<sup>41</sup> OIG proposed the need for a supportable, risk-based methodology for assigning inspection staff, a reassessment of the effectiveness of the agency's supervisory processes, improvements in inspection and supervisory staff training, and strengthening of antemortem and related inspection procedures.<sup>42</sup>

In 2004 the Government Accountability Office (GAO) concluded that incomplete and inconsistent inspection records had made it difficult to determine the extent of humane handling and slaughter violations.<sup>43</sup> They found that FSIS took inconsistent enforcement actions to

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<sup>35</sup> Id.

<sup>36</sup> Id.

<sup>37</sup> On February 17, 2008 the USDA announced that Hallmark/Westland Meat Packing Co. in California was recalling 143 million pounds of beef in at least 45 states around the country; this was the largest U.S. meat recall ever.

<sup>38</sup> Id.

<sup>39</sup> Id.

<sup>40</sup> Id.

<sup>41</sup> Id.

<sup>42</sup> Id.

<sup>43</sup> Becker, Geoffrey S.

address noncompliance and that it lacked data on numbers of inspectors, as well as time devoted to HMSA enforcement.<sup>44</sup>

There was also open criticism by the Inspectors Union Following release of the video showing inhumane treatment of the Hallmark event, the meat inspectors' union and a consumer advocacy group charged that inspectors at Hallmark were specifically instructed not to visit cattle pens before slaughter.<sup>45</sup> The FSIS veterinarian-in-charge was the only one on the plant that was allowed to check the animals for humane handling, but he was absent most of the time.<sup>46</sup> The argument being made by the Inspectors Union was that at the plants there commonly existed vacancies, which would require off-line inspectors and even the FSIS veterinarian to work on-line at essential post-mortem inspection activities.<sup>47</sup>

It is important that the Act work effectively because disease can be easily contracted by the animals.<sup>48</sup> In 2008, before the Senate Appropriations subcommittee on agriculture, the Secretary of Agriculture Edward T. Schafer argued that at times an animal can be injured in a fall as it is going through inspection and the plant's killing station, and that having a veterinarian on site is pertinent to the health of the animals in their final moments.<sup>49</sup> Studies show that animals that fall and get injured, downers, are much more likely to harbor not only BSE but food borne pathogens like e. Coli and Salmonella.<sup>50</sup> However, as it was argued by a BSE expert that when determining whether a cow is sick with BSE, it is often first seen through subsequent testing.<sup>51</sup>

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<sup>44</sup> Id.

<sup>45</sup> Id.

<sup>46</sup> Id.

<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> Id.

<sup>50</sup> Id.

<sup>51</sup> Id.



### C. State Slaughter Statutes

Since 1978 The Humane Methods of Slaughter Act has governed for all of the United States, but individual states had been taking their own initiative by creating their own pieces of legislation; some of the legislation that is going to be discussed even predates The HMSA.

Since 1956, Arizona, has had their own Slaughter statute that requires that all animals be rendered insensible to pain by a single blow, gunshot, or an electrical/chemical means that is rapid and effective.<sup>52</sup> However in the Arizona statute there exists an exception for personal use. The statute allows for religious and ritual exemptions such as for people of the Jewish faith or any faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by amen of the brain.<sup>53</sup> This statute covers: cattle, horses, mules, sheep, swine, and other livestock.<sup>54</sup>

In California, whose statute was passed in 1967, requires all cattle, calves, horses, mules, sheep, swine, goats, and fallow deer must be slaughtered by a: captive bolt, gunshot, electrical or chemical means, or any other means that is rapid and effective before being cut, shackled, hoisted, thrown, or cast; an exception for poultry exists, as birds are widely unprotected by these laws.<sup>55</sup> Faiths that prescribe a method of slaughter are protected in this statute as similar to the HMSA and Arizona's statute.<sup>56</sup>

Colorado's Slaughter statute, 1989, is similar to the two prior statutes in regards to rendering the animal insensible, but include additional tools that are not allowed to be used.<sup>57</sup>

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<sup>52</sup> AZ ST § 3-2002 – 2017.

<sup>53</sup> Id.

<sup>54</sup> Id.

<sup>55</sup> CA FOOD & AG § 19501 – 19503; CA FOOD & AG § 1245 et seq.

<sup>56</sup> Id.

<sup>57</sup> CO ST § 35-33-203 – 407.

Colorado (as well as Kansas<sup>58</sup>, Maryland<sup>59</sup>, Maine<sup>60</sup>, Michigan<sup>61</sup>, Minnesota<sup>62</sup>, Pennsylvania<sup>63</sup>, Vermont<sup>64</sup>, and Washington<sup>65</sup>) bans the use of manually operated hammers, sledge, or poleax. The statute does include that Poultry shall be slaughtered in accordance with “good commercial practices” and in a manner that will result in thorough bleeding and assure that breathing has stopped prior to scalding; there is also an additional protection for rabbits that states that they should be stunned before killing.<sup>66</sup> The Colorado statute also adds in penalties unlike Arizona and California, as a violation of the rule incurs a civil penalty of not more than \$750 per violation as counted in terms of days of violation.<sup>67</sup> And secondly, a violation of provisions of this article for any rule or regulation promulgated under the statute commits a class 2 misdemeanor.<sup>68</sup>

The state of Florida, statute enacted 1961, is similar to the statutes previously mentioned, however they induce a higher penalty on the ones who violate the statute.<sup>69</sup> The violations are the following: any person who violates the act and any associated rule is subject to an administrative fine of up to \$10,000 for each violation; and it is also a misdemeanor in the second degree.<sup>70</sup> These penalties written into the statute are considerably harsh compared to a state such as Iowa<sup>71</sup> who only offers a simple misdemeanor to people who violate the law.

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<sup>58</sup> KS ST § 47-1401 – 1405.

<sup>59</sup> MD Code, Agriculture, § 4-101 – 4-131.

<sup>60</sup> ME ST T. 22 § 2521 - 2521-C.

<sup>61</sup> MCL § 287.551.

<sup>62</sup> MN ST § 31.59 - 31.592.

<sup>63</sup> PA ST 3 Pa.C.S.A. § 2361.

<sup>64</sup> VT ST T. 6 § 3131 – 3134.

<sup>65</sup> West's RCWA 16.50.010 - 16.50.900.

<sup>66</sup> § 35-33-203 – 407.

<sup>67</sup> Id.

<sup>68</sup> Id.

<sup>69</sup> F. S. A. § 828.22.

<sup>70</sup> Id.

<sup>71</sup> IA ST § 189A.18 - 189A.22.

In Illinois, whose statute (enacted 1967) is similar to all other statutes in regards to rendering the animals insensible is different in the sense that it's religious exceptions expands to calves, sheep, and cattle where ritually acceptable and practical methods are unavailable for positioning livestock for purposes of slaughter in accordance with the requirements of any religious faith.<sup>72</sup> Illinois, like Florida, takes it easy on offenders of the statute as they are only charged with a petty offense.<sup>73</sup> New Jersey's state statute also takes an easy stance towards offenders, as their law states that no person may be fined or arrested for the first offense involving a minor or incidental violation.<sup>74</sup>

#### **D. What is Humane Slaughter?**

In the U.S. today more than 98% of animals that are used for food are raised under horrific conditions, commonly called factory farms, where they are exposed to abuse, mutilation, and are severely confined.<sup>75</sup> Animals on these farms are usually hidden away in warehouses where they are deprived of fresh air, sunlight, and the ability to live the way they naturally would.<sup>76</sup> Consumers in the U.S. have become aware of these horrors that the animals face, and have turned to buying from providers of meat, dairy, and eggs that treat animals more humanely.<sup>77</sup>

Humane slaughter laws in the U.S. provide very little protection to pigs, cows, sheep, and goats, and they provide no protection for chickens, turkeys, and other birds.<sup>78</sup> The ill-treatment of livestock and other farm animals has been revealed through thousands of investigations across

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<sup>72</sup> IL ST CH 510 § 75/0.01 - 75/8.

<sup>73</sup> Id.

<sup>74</sup> NJ ST 4:22-1 et seq.

<sup>75</sup> Humane Facts, <https://humanefacts.org> (last visited 10/30/19).

<sup>76</sup> Id.

<sup>77</sup> Id.

<sup>78</sup> Humane Facts: Humane Slaughter, <https://humanefacts.org/humane-slaughter/> (last visited 10/30/19).

the globe.<sup>79</sup> What is revealed in these investigations has been that animals raised under existing humane labels also end up at the same slaughterhouses as factory-farmed animals.<sup>80</sup>

Humane slaughter means that farmed animals are required to be stunned, so that they are rendered unconscious or insensible to pain, before they are ultimately killed.<sup>81</sup> These humane slaughter laws are largely unenforced.<sup>82</sup> Stunning has been chosen for the “humane method” because slaughterhouse killing methods seek to maximize speed, and it is a held belief in the trade that the fastest way to drain an animal of their blood is by slitting their throats while their hearts are still beating. This last phase of the process is referred to as “bleeding out.”<sup>83</sup>

Although humane slaughter laws rely on stunning as being the preferred way of rendering the animal unconscious, it is becoming apparent that stunning practices are frequently ineffective at actually inducing unconsciousness, which results in tremendous pain and suffering for the animals.<sup>84</sup> When ineffective stunning occurs, the animal then has to be shot in the head or be administered more electrocuted stunning; the last alternative for these animals is that they are slaughtered while being conscious.<sup>85</sup> Federal inspectors have stated on the record that because of inspection loopholes, that has been created by collusion with the meat industry, that enforcement of humane slaughter laws are extremely difficult.<sup>86</sup>

Some breeders who even send their livestock to smaller slaughter houses for the purpose of ensuring that they are humanely slaughtered, does not guarantee that the animal will be slaughtered humanely.<sup>87</sup> Even at smaller facilities that comply with the strictest humane labeling

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<sup>79</sup> Id.

<sup>80</sup> Id.

<sup>81</sup> Id.

<sup>82</sup> Id.

<sup>83</sup> Id.

<sup>84</sup> Id.

<sup>85</sup> Id.

<sup>86</sup> Id.

<sup>87</sup> Id.

requirements, animals experience confusion, stress, and terror; which is the same fate they would have had at the larger industrial slaughterhouses.<sup>88</sup> Incidents that regularly occur are unsuccessful bolt stunning, in which the animal is not rendered unconscious and they remain awake through the process.<sup>89</sup> On a typical day at a certified humane farm, 2 out of 21 cows express distress which foams to meet USDA's lax criteria for "humane slaughter."<sup>90</sup>

**i. Critiques of the idea of Humane Slaughter.**

Philosophically, humane slaughter is largely critiqued. Animal advocates argue that humane slaughter relies on the myth that animals do not have an interest in staying alive.<sup>91</sup> But research has shown that animals indeed have an innate desire to live, as they will fight for their lives, the lives of their offspring, and even for the lives of members of their extended social group.<sup>92</sup>

Secondly, advocates point to how Humane slaughter uses the practices of factory farming and industrial slaughterhouses as a moral baseline.<sup>93</sup> The argument made against this false moral basis is if there was a real genuine interest in the animals well-being then they would have the moral basis of "humane" be based off of the actual definition of "humane", and not the worst case scenario; that is being at a slaughterhouse.<sup>94</sup>

Furthermore, advocates argue that the purpose of the slaughterhouses are in themselves not humane.<sup>95</sup> This is based off of the fact that they are in the business of artificial breeding an animal into existence for the sole purpose of raising them to market standards to then slaughter.<sup>96</sup>

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<sup>88</sup> Id.

<sup>89</sup> Id.

<sup>90</sup> Id.

<sup>91</sup> Grillo, Robert, Free from Harm: Humane Slaughter? 11 Key Reasons Why It's Not, March 5, 2013, <https://freefromharm.org/animal-products-and-ethics/12-reasons-why-i-dont-believe-in-humane-slaughter/> (last visited October 30, 2019).

<sup>92</sup> Id.

<sup>93</sup> Grillo, Robert, Free from Harm: Humane Slaughter? 11 Key Reasons Why It's Not.

<sup>94</sup> Id.

<sup>95</sup> Id.

<sup>96</sup> Id.

Arguments against the idea of humane slaughter are also based off of widely-accepted principles such as “equal consideration of interests.”<sup>97</sup> This principle was introduced by bioethics philosopher Peter Singer, who asserts that one should include all affected interests when calculating the rightness of an action and weigh those interests equally.<sup>98</sup> Singer’s principle suggests that both humans and non-human animals be treated equally with respect to end of life issues.<sup>99</sup>

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<sup>97</sup> Id.

<sup>98</sup> Id.

<sup>99</sup> Id.