



6-1-2000

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Recommended Citation

Jean C. Yasuhara, *Cruella De Vil Revisited: The International Dog and Cat Fur Trade*, 22 Loy. L.A. Int'l & Comp. L. Rev. 403 (2000).

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“CRUELLA DE VIL” REVISITED: THE INTERNATIONAL DOG AND CAT FUR TRADE

I. INTRODUCTION

Children, both in the United States and worldwide, love Walt Disney movies, which always end “happily ever after.” One such film is *101 Dalmatians*, an animated classic that tells the story of an evil woman named Cruella De Vil who wants to use the fur of cute Dalmatian puppies to make a coat for herself.¹ She hires henchmen to steal the puppies from their owners in the city with the intent to butcher the frightened animals for their soft, spotted fur.² In the end, the puppies are saved from gruesome deaths and return to a loving home.³

The film’s plot is based on the assumption that most people cherish their animal companions and would be horrified to learn that anyone would consider wearing a pet as a fur coat. Perhaps this explains why Cruella De Vil is so villainous—she showed no emotion for the puppies—her ultimate goal was to skin them.⁴ Her barbaric scheme seems unbelievable. Moviegoers are relieved when Cruella De Vil fails because most can relate to the Dalmatians’ owners, who celebrate their pets’ return. Viewers find comfort in the fact that Cruella is a fictional character; most could not imagine that she is alive and well today.

Although fictional, this Disney film resembles reality in various ways. In reality, some believe Cruella De Vil’s cold mentality and heartlessness lives on in the current international dog and cat fur trade. The issue came to the U.S. public’s attention in late 1998, when the Humane Society of the United States (HSUS) released the results of an intensive investigation concerning the international dog and cat fur trade conducted by nine agents over the course of eighteen months.⁵ Although the

1. See *101 DALMATIANS* (Walt Disney Studios 1961).

2. See *id.*

3. See *id.*

4. See *id.*

5. See *Domestic Pets Slaughtered for Fur* (last modified Dec. 15, 1998)

investigation concentrated on China, Thailand, and the Philippines,⁶ the global ramifications of dog and cat fur trade practices surfaced when Burlington Coat Factory, a nationwide retail chain, unknowingly sold men's jackets with dog-fur trim.⁷

In the Burlington scandal, stores sold approximately one hundred dog-fur jackets to consumers before pulling the remaining inventory from stores immediately after HSUS informed the company of the fur's actual source.⁸ Burlington executives told CNN that they believed the fur was from coyotes when Burlington purchased the coats from its vendor.⁹ In reality, no one at Burlington bothered to check the jackets' labels, which claimed that the fur was "Mongolian Dog Fur."¹⁰ AG-GEN Labs in Davis, California, conducted DNA tests on a sample of the fur trim to scientifically confirm the HSUS investigators' belief that the coats were made with domestic dog fur.¹¹ The news of the dog-fur jackets upset the public and hurt Burlington's reputation as a retail outfitter.¹²

In less notorious instances, items made from dog or cat fur sell cheaply in discount outlets and small dealers' kiosks.¹³ In San Diego, California, for example, swap meet visitors noted that some small cat figurine toys seemed very realistic; the San Diego

<<http://www.fluffynet.com/prpetfur.htm>>.

6. See *id.*

7. See *Burlington Coat Factory Says It Was Misled by Garment Supplier* (last modified Dec. 15, 1998) <<http://cnnfn.com/1998/12/15/companies/coats/>>.

8. See Melanie Burney, *Burlington Coat Factory Pulls Dog-Fur Parkas from Stores*, BOSTON GLOBE, Dec. 16, 1998, at C5 (stating that the coats were made of fur from dogs slaughtered in China).

9. See *Burlington Coat Factory Says It Was Misled by Garment Supplier*, *supra* note 7.

10. *Dateline NBC: Victims of Fashion* (NBC television broadcast, Dec. 15, 1998) (transcript on file with the *Loyola of Los Angeles International & Comparative Law Review*) (explaining that Burlington bought the parkas from Acme International, an importer, who purchased the parkas from a Chinese supplier).

11. See *id.*

12. See *Burlington Coat Factory Says It Was Misled by Garment Supplier*, *supra* note 7 (noting that shares of Burlington stock closed down 13/16 on December 15, 1998).

13. See David Nitkin, *Fur Shame; Humane Society Alerts Public to Use of Dog and Cat Pelts*, SUN-SENTINEL (Ft. Lauderdale), Feb. 27, 1999, available in LEXIS, News Library, Curnws File. See also *HSUS Undercover Investigation Determines American Retailers Are Selling Dog and Cat Fur Products*, HSUS NEWS RELEASE, Dec. 13, 1999 (on file with the *Loyola of Los Angeles International & Comparative Law Review*) [hereinafter *HSUS Undercover Investigation*] (mentioning that the figurines, manufactured primarily by Shangdong Heze Prefecture Import and Export Corporation in China, sell for twenty-five to thirty-five U.S. dollars).

Humane Society also noticed the similarity.¹⁴ A concerned citizen complained that the items did not seem like rabbit fur, as the vendors claimed, because of the distinct coloration of the cat fur.¹⁵ After an investigation, law enforcement cited vendors Mario James and Tran Hung for violating state laws prohibiting the possession or sale of cat or dog pelts.¹⁶ Unfortunately for the unwitting public, Mr. James disclosed that he bought the cat figurines from a business in Los Angeles and sold over one hundred of them at the swap meet over a three-month period.¹⁷

Although some states, such as California¹⁸ and Georgia,¹⁹ have laws specifically prohibiting the sale of dog and cat fur, the majority of states do not. Additionally, existing federal laws fail to strictly limit the importation and mislabeling of dog and cat fur. As a result, U.S. consumers unintentionally support an international industry that slaughters over two million dogs and cats each year.²⁰ The 1998 HSUS investigation and the Burlington Coat Factory exposé fostered outrage and disgust in the United States, where citizens cherish their pets and often treat them like family members.²¹

14. See Andrew Resnik, *Figures with Cat Fur Seized* (last modified Dec. 31, 1998) <http://publish.nbc739.com/tvsd/news_archives/>.

15. See *id.* The County Veterinarian's Office confirmed the suspicions of both the public and the Humane Society when it tested a sample from the figurines and determined that it was actual domestic cat fur. See *id.*

16. See *id.* See also CAL. PENAL CODE § 598a (Deering 1998), which reads, in pertinent part:

Every person is guilty of a misdemeanor who possesses, imports into this state, sells, buys, gives away or accepts any pelt of a dog or cat with the sole intent of selling or giving away the pelt of the dog or cat, or who possesses, imports into this state, sells, buys, gives away, or accepts any dog or cat, with the sole intent of killing or having killed such dog or cat for the purpose of selling or giving away the pelt of such animal.

Id. § 598a(b).

17. See Resnik, *supra* note 14. The Humane Society also mentioned that the toys carry a label noting, "Made in China." See *id.* See also HSUS *Undercover Investigation*, *supra* note 13 (estimating that as many as twenty different Chinese companies manufacture the figurines for export). The Humane Society of the United States, in tandem with local humane societies, traced the majority of the animal-fur figurines coming to the United States to several import companies—V & T Trading of Los Angeles; Guo Hua Traders, Inc., of Rosemead, California; and VIP Eurocraft of New York. See *id.*

18. See CAL. PENAL CODE § 598a.

19. See GA. CODE ANN. § 27-3-63 (Harrison 1998).

20. See Nitkin, *supra* note 13.

21. See 145 CONG. REC. S6797 (daily ed. June 9, 1999) (introductory statement of Senator William Roth, co-sponsor of the Dog and Cat Protection Act of 1999, S. 1197, 106th Cong. (1999) ("There is a special relationship between men, women, children, and

Although seemingly hypocritical, many U.S. citizens do not take issue with using certain animals (e.g., cows, pigs, sheep, etc.) for food or materials. Also, many subscribe to cultural beliefs when accepting the use of certain fur-bearing animals (e.g., foxes, mink, etc.) for glamorized, high-priced fur coats.²² Although recent anti-dog and cat fur legislation²³ represents a timely response to the global situation, and certainly deserves commendation, the reasons underlying the demand for fur remain unaddressed.

The economic theory of supply and demand for fur products in general explains the dog and cat fur trade's success.²⁴ Until society views *all* fur commodities as products of animal cruelty and with the same abhorrence it projects towards dog and cat fur items, countries like China will have economic incentive to provide the sought-after fur in the most profitable manner. Dogs and cats will continue to be slaughtered for their fur as long as people in the United States and other nations desire fur items.

This Comment explores the practices of the international dog and cat fur trade and the U.S. legislative response thereto. Part II explains, in graphic detail, how the fur trade operates in parts of China, where animal cruelty abounds to meet the demand for fur. Part III explores Chinese export policies and procedures and U.S. labeling laws, and examines some of the international responses to the dog and cat fur trade. This Part also focuses on current federal and state legislation the United States. Part IV discusses and analyzes the Dog and Cat Protection Act of 1999,²⁵ which is currently pending in Congress, and explores the ideological differences between animal advocacy groups and the fur industry.

their family pets—particularly their dogs and cats”).

22. See *infra* note 182 and accompanying text.

23. See Dog and Cat Protection Act of 1999, S. 1197, 106th Cong. (1999); H.R. 1622, 106th Cong. (1999).

24. See *generally* *Fur and Leather Show Opens in Beijing*, XINHUA GENERAL OVERSEAS NEWS SERVICE (Beijing), Jan. 7, 1985, available in LEXIS, News Library, Non-U.S. File (reporting on the week-long fur fair that the China National Native Produce and Animal By-products Import and Export Corporation hosted, which over three hundred foreign businesspersons from seventeen countries including Japan, the United States, Great Britain, and Canada attended). The Chinese apparently did not keep the use of dog and cat fur in the international fashion industry secret at this fair because models displayed garments made of mink, wolf, raccoon, rabbit, cat, dog, and sheepskin. See *id.* Thirty-three Chinese corporations took part in the exhibit, where factory directors met foreign investors and took orders. See *id.*

25. S. 1197; H.R. 1622.

Finally, Part V proposes that despite Congress' good intentions, the dog and cat fur trade will continue until consumers change their attitudes and beliefs about the use of all fur products.

II. THE INVESTIGATION THAT SHOCKED THE WORLD: EXPOSING THE HORRORS OF THE DOG AND CAT FUR TRADE IN ASIA

A. Humane Society Agents Go Undercover in Asia

Over the course of eighteen months, HSUS undercover investigators followed the process of harvesting animals for the international dog and cat fur trade.²⁶ The HSUS investigators posed as interested buyers from a fictitious company named "Global Enterprises," claiming they wanted to purchase dog and cat furs for importation from China to the United States.²⁷ German journalist Manfred Karremann went along to photograph and film the investigation under the guise of shooting images for Global Enterprises' business partners in the United States.²⁸ Because the Chinese vendors believed the investigators legitimately wanted to purchase the fur, they had state officials arrange tours of government-run fur facilities throughout the country.²⁹ The investigators made four trips to China between January 1997 and August 1998.³⁰

1. The Fur's Source

The first step for fur traders is obtaining the fur. Many villages host open-air markets that serve as collection points for the pelts of dogs and cats killed locally.³¹ Most of the dogs and cats whose pelts are used in the fur trade, however, are raised on

26. See *Dateline NBC: Victims of Fashion*, *supra* note 10.

27. See *id.*

28. See *id.*

29. See *id.*

30. See *id.*

31. See HUMANE SOCIETY OF THE UNITED STATES, WHAT IS THAT THEY'RE WEARING? 2-3 (1998). The information contained in WHAT IS THAT THEY'RE WEARING? can also be found at the HSUS web documentary entitled *Betrayal of Trust: An Investigation into the Dog and Cat Fur Trade* (visited Aug. 28, 1999) <http://www.hsus.org/current/dc_fur/web_doc/fur_1.html> (containing text, videos, and photographs). But see *Burlington Coat Factory Says It Was Misled by Garment Supplier*, *supra* note 7 (quoting Chinese Embassy spokeswoman Yu Suning: "it is natural for people to buy and sell cats and dogs in local markets. . . . The Chinese people do not have the tradition of using cats and dogs as materials for (the) fur industry.").

breeding farms located primarily in northern China, where the cold climate increases the thickness of the animals' fur.³²

For example, at one particular dog farm north of Harbin, China, dogs are housed in a dark, unheated building without food or water, and tied up with thin metal wires.³³ The animals' suffering continues when they are packed into sacks and transported to the slaughterhouse, which is located several hours away.³⁴ China, unlike the United States, does not have laws prohibiting this specific type of animal cruelty and fur traders appear to go unpunished.³⁵

2. Slaughtering the Animals

The animals' suffering does not end swiftly or painlessly when they reach their final destinations. A commonly used method to kill a dog is to stab it in the groin area, severing a vein or artery,

32. See HUMANE SOCIETY OF THE UNITED STATES, *supra* note 31, at 2–3 (noting that breeders may keep anywhere from five to three hundred dogs at dog farms and up to seventy cats at cat farms).

33. See *id.* at 3.

34. See *id.*

35. Interestingly, HSUS did not investigate Taiwan, also known as the Republic of China, in its 1998 investigation of the dog and cat fur trade, but that same year Taiwan passed a law prohibiting animal cruelty. Compare Animal Protection Law art. 9 (1998) (Taiwan), available at http://www.coa.gov.tw/english/Animal_Protection_Law/index.html (visited Apr. 17, 2000) (stating that “[w]hile carrying an animal, its food, water, excrement, environment, and safety shall be well taken care of”) with Animal Welfare Act, 7 U.S.C. §§ 2131–2157 (1966) (mandating standards for the humane handling, care, treatment and transportation of animals). The Animal Welfare Act provides, in pertinent part:

(1.) The Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors.

(2.) The standards described in paragraph (1) shall include minimum requirements—

(A.) for handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, and separation by species where the Secretary finds necessary for humane handling, care, or treatment of animals; and

(B.) for exercise of dogs, as determined by an attending veterinarian in accordance with general standards promulgated by the Secretary. . . .

7 U.S.C. § 2143. See also MARGARET C. JASPER, ANIMAL RIGHTS LAW 6 (1997) (explaining that most U.S. anti-cruelty statutes specifically require that the transport of animals be humanely undertaken; for example, many statutes specify that animals must have room to stand and recline during transportation and be provided with adequate food and water).

which causes the animal to slowly bleed to death.³⁶ After a couple of minutes, the butcher skins the dog, despite the fact that sometimes, the animal is still alive and conscious.³⁷ The only purpose for this brutal method is to maximize profit—by cutting behind the animal's leg, damage to the fur is minimized, and the bulk of the coat remains unblemished.³⁸

Similarly, cats face horrible deaths in an effort to preserve their fur. Butchers preserve the fur by hanging cats with wire and pouring water down their throats until they drown.³⁹ Like their canine counterparts, the cats may still cling to life when the butchers slit their stomachs, open the skin, and pull the fur over the their heads.⁴⁰

The methods Chinese fur traders utilize are strikingly similar to the now-illegal procedures formerly used in U.S. meat-packing plants, where slaughterers subjected animals, often still alive, to boiling, knifing, beating with sledgehammers, shackling, or hanging from rafters.⁴¹ The Federal Humane Slaughter Act brought an end to cruel butchering practices by mandating the use of humane slaughter methods.⁴² In the Chinese fur industry, however, there are no such specific regulations. In fact, the butchers' sole motivation is profit, so they work according to how much money they can take for each skin, without concern for the animals' suffering.

B. The World Market

Countries like Germany, Italy, and France import dog and cat pelts for use in manufacturing finished garments, which are then shipped throughout the world.⁴³ In 1997, a German fur-auction house offered ten thousand dog furs at just one sale.⁴⁴ According to the president of one German company, the company obtains the

36. See *Dateline NBC: Victims of Fashion*, *supra* note 10.

37. See HUMANE SOCIETY OF THE UNITED STATES, *supra* note 31, at 4.

38. See *Dateline NBC: Victims of Fashion*, *supra* note 10.

39. See HUMANE SOCIETY OF THE UNITED STATES, *supra* note 31, at 4.

40. See *id.*

41. See JASPER, *supra* note 35, at 13.

42. See 7 U.S.C. §§ 1901–1906 (1994). The Federal Humane Slaughter Act provides that “all animals are rendered insensible to pain by a single blow or gunshot or electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast or cut.” *Id.* § 1902.

43. See HUMANE SOCIETY OF THE UNITED STATES, *supra* note 31, at 6.

44. See *id.*

cat pelts from China and then sends them to Greece for manufacturing fur garments.⁴⁵ In Italy, where, as recent as the 1990s, an Italian ski equipment company sold dog fur-lined boots,⁴⁶ there is also support for the fur trade. There is also documentation that a French company maintained a supply of dog-fur plates to use for jackets sold mainly in the French Alps.⁴⁷

Most of the fur exported from China arrives in the form of fur plates, which consist of a number of skins sewn together.⁴⁸ For example, at one Chinese company, a fur plate of six to eight gray or orange cat pelts costs twenty-one U.S. dollars—two plates make a short jacket and three plates make a coat.⁴⁹ Sometimes, with larger dog breeds, individual furs are sold separately; for example, one German Shepherd skin sells for nine U.S. dollars.⁵⁰

C. An Industry Not Limited to China

Although the HSUS investigation focused on China, where the dog and cat fur trade exists on a relatively large scale, other Asian nations also participate in the industry.⁵¹ Specifically, the Philippines participates in cat slaughter and Thailand in dog slaughter.⁵² Although the same horrible conditions exist for dogs and cats, traders in the Philippines and other Asian nations kill the animals primarily for their meat and skin, rather than their fur.⁵³ In Thailand, dogs collected from around the country arrive in Sakhon Nakhon, an area in northeast Thailand notorious for slaughtering the animals.⁵⁴ The dogs' journey to Sakhon Nakhon

45. *See id.* (mentioning that cat fur is used for gloves, waistcoats, foot muffs, and a variety of products for the treatment of rheumatism, including bandages and bed-warmers).

46. *See* Fern Shen, *Boots' Dog-Fur Trim Enrages Activists*, WASH. POST, Jan. 7, 1992, at D1. The company, Tecnica, claimed that its French supplier obtained the fur from the pelts of "wolflike dogs killed humanely in the Hunan province of China." *Id.* at D5. Tecnica marketed the boots in several Washington area stores. *See id.* at D1.

47. *See* HUMANE SOCIETY OF THE UNITED STATES, *supra* note 31, at 7.

48. *See id.*

49. *See id.*

50. *See id.*

51. *See id.* at 9.

52. *See id.*

53. *See id.*

54. *See id.* at 10 (estimating that 30,000 dogs perish monthly in the area of Sakhon Nakhon). Ironically, skins of some Thai dogs are used to produce rawhide chew toys sold in the United States for American dogs. *See id.*

can take days, and the dogs receive no food or water during the trip.⁵⁵

In the Philippines, HSUS investigators visited a cat slaughterhouse that skins up to one hundred cats daily.⁵⁶ Interestingly, only male cats are subject to slaughter because they have a greater amount of usable skin.⁵⁷ As a result, few male cats survive in the area surrounding the slaughterhouse and collectors must therefore drive hours away to round up more male cats.⁵⁸ Like the dogs in Thailand, the cats, who are often stuffed into sacks, do not receive food or water during the journey to the slaughterhouse.⁵⁹ Butchers ultimately hang the cats by their necks with rope and suffocate them before skinning them.⁶⁰

III. LEGISLATIVE RESPONSES TO THE USE OF DOG AND CAT FUR

A. Chinese Export Law Versus U.S. Fur Labeling Law

With the news of the Burlington Coat Factory mishap, the legality of utilizing dog and cat fur in consumer goods becomes questionable. HSUS investigators discovered that domestic dog fur is commonly labeled as, or also known as: *gae-wolf*, *sobaki*, Asian jackal, *gou-pee*, *kou pi*, *gubi*, China wolf, Asian wolf, pommern wolf, Asiatic raccoon dog, corsac fox, or *dogues du Chine*.⁶¹ Similarly, domestic cat fur is often labeled as: housecat, wild cat, *katzenfelle*, *goyangi*, or mountain cat.⁶² When manufacturers use these vague terms, consumers all over the world often have no chance of discovering from which animals their fur products come.

1. Inspection of Export Commodities in China

The Law of the People's Republic of China on Import and Export Commodity Inspection⁶³ contains guidelines governing the

55. *See id.*

56. *See id.* at 9. Although some of the cats are strays, most are stolen pets. *See id.*

57. *See id.*

58. *See id.*

59. *See id.*

60. *See id.* at 10.

61. *See id.* at 8. Interestingly, few wild dogs actually inhabit Asia, and coyotes or coyote-type dogs exist in North and South America in the wild only. *See id.*

62. *See id.*

63. Fagui Huibian [Corpus of Laws and Regulations] (P.R.C.), translated in

inspection of goods. The stated goal of this legislation is "improving the inspection of import and export commodities, ensuring the quality of import and export commodities, safeguarding the legal rights and interests of the various parties involved in foreign trade and promoting the successful development of foreign economic and trade relations."⁶⁴ With respect to certain export goods:

Imports and exports which are included in the List of Commodities and/or other imports and exports subject to inspection by commodity inspection authorities pursuant to other laws or administrative legislation shall undergo inspection by the commodity inspection authorities or other inspection organi[z]ations designated by the State Administration of Commodity Inspection or commodity inspection authorities.⁶⁵

Included in the list of export commodities is the "[I]ivestock products" category, which includes "[r]aw hides and skins for tanning: goat skins, chamois skins. Leather: pig skins, sheep and goat skins, leather garments."⁶⁶ This list does not include references to dog and cat fur or skin.⁶⁷ Presumably, because domestic dog or cat fur is not specifically included in the list of items that must be identified, simply labeling them as "fur" seems to meet China's identification requirements.

The above rules contain another category under which dog and cat fur items could potentially fall. Interestingly, the "[f]ur skins and manufactures thereof" category lists the specific types of fur subject to direct inspection, including: "fox fur, *huyang* sheep fur, wolf fur, marmot fur, mink fur, otter fur, kolinsky fur, alpine weasel fur, squirrel fur, fur mattresses, fur garments, fur headgear."⁶⁸ Again, however, this category also fails to specifically mention dog and cat fur, thus leaving the door open for labeling the fur as simply "fur" or, in the alternative, as "China wolf" or "wild cat" to lure consumers into buying the fur products. In fact, dog and cat fur product manufacturers and sellers often

[Customs] China L. Foreign Bus. Tax'n & Customs (CCH) ¶ 52-520(5), at 65,351 (1999).

64. *Id.* ch. I, art. 1.

65. *Id.* ch. I, art. 5.

66. List of Import and Export Commodities Subject to Inspection by a Commodity Inspection Office pt. II (P.R.C.), translated in [Customs] China L. Foreign Bus. Tax'n & Customs (CCH) ¶ 52-500, at 65,301, 65,311 (1999).

67. *See id.*

68. *Id.*

label products to accord with buyers' preferences, because they know consumers find some species more acceptable than others for use in garments.⁶⁹

2. The Fur Products Labeling Act

In 1951, Congress enacted the Fur Products Labeling Act (FPLA), through which the Federal Trade Commission (FTC) governs the labeling of fur products.⁷⁰ The FPLA's purpose, as interpreted by the judiciary,⁷¹ is to protect consumers from deceptive fur labeling practices, such as misbranding, false or deceptive advertising, or false invoicing of fur products and furs.⁷²

Under the FPLA, a fur product is "misbranded" if the label contains any misrepresentation or deception, directly or by implication, with respect to such fur product.⁷³ The label affixed to fur products must provide consumers with certain information, such as the name or names of the animal or animals used in producing the fur⁷⁴ and the country of origin of any imported furs used in manufacturing the fur product.⁷⁵ To minimize confusion about the proper names of animals, the FPLA requires that within six months of the Act's enactment, the FTC create a register setting forth the names of fur-bearing animals.⁷⁶ The Fur Products Name Guide⁷⁷ provides the true English names for the animals in question, or in the absence of such terms, the names properly identifying such animals in the United States.⁷⁸ The Guide clearly charts the common name, order, family, and genus-species of fur-

69. See HUMANE SOCIETY OF THE UNITED STATES, *supra* note 31, at 4. See also Nitkin, *supra* note 13 (quoting HSUS investigator Rick Swain, "I had a government minister in China tell me, 'We'll label it anything you want.'").

70. See Fur Products Labeling Act, 15 U.S.C. § 69 (1994) (originally enacted as Act of Aug. 8, 1951, ch. 298, § 2, 65 Stat. 175).

71. See, e.g., *FTC v. Mandel Bros.*, 359 U.S. 385, 385 (1959) (holding that the provisions of the FPLA, which prohibit false and deceptive invoicing, apply to retail sales); *DeGorter v. FTC*, 244 F.2d 270, 278 (9th Cir. 1957) (holding that the FPLA prohibits specifically "any form" of misrepresentation or deception relating to fur products).

72. See 15 U.S.C. § 69.

73. See *id.* § 69b.

74. See *id.* § 69b(2)(A).

75. See *id.* § 69b(2)(F). Fur products imported into the United States must also comply with the FPLA rules, pursuant to which: "Fur products imported into the United States shall be labeled so as not to be misbranded within the meaning of section 69b of this title." *Id.* § 69d(a).

76. See *id.* § 69e(a).

77. Fur Products Name Guide, 16 C.F.R. § 301.0 (1994).

78. See *id.*

bearing animals used in consumer goods. The chart includes the names "cat, domestic"⁷⁹ and "dog;"⁸⁰ if these animals are used in producing fur products, the names must appear on the labels.⁸¹

Although the FPLA establishes clear guidelines for the proper labeling of fur products, furriers nevertheless find ways to circumvent the law and avoid punishment. The numerous interpretations of the term "fur product" muddle the statute's plain meaning.⁸² The FPLA defines "fur product" as "any article of wearing apparel made in whole or in part of fur or used fur; except that such term *shall not include such articles as the Commission shall exempt by reason of the relatively small quantity or value of the fur* or used fur contained therein."⁸³ Under one of the Fur Products Name Guide's provisions, however, fur products costing less than one hundred and fifty U.S. dollars are exempt from FPLA labeling requirements.⁸⁴ Often, fur-trimmed garments and accessories fall within this low price range, and as a result, the

79. *See id.*

80. *See id.*

81. *See id. See also id.* § 301.11 ("No trade names, coined names, nor other names or words descriptive of a fur as being the fur of an animal which is in fact fictitious or non-existent shall be used in labeling, invoicing or advertising of a fur or fur product.").

82. The Act's language provides that:

The introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product which is misbranded or falsely or deceptively advertised or invoiced, within the meaning of this subchapter or the rules and regulations prescribed under section 69f(b) of this title, *is unlawful and shall be an unfair method of competition, and an unfair and deceptive act or practice*, in commerce under the Federal Trade Commission Act.

15 U.S.C. § 69a(a) (emphasis added).

83. *Id.* (emphasis added).

84. *See* 16 C.F.R. § 301.39(a), which provides:

If the cost of any fur trim or other manufactured fur or furs contained in a fur product, exclusive of any costs incident to its incorporation therein, does not exceed one hundred fifty dollars (\$150) to the manufacturer of the finished fur product, or if a manufacturer's selling price of a fur product does not exceed one hundred fifty dollars (\$150), and the provisions of paragraphs (b) and (c) of this section are met, *the fur product shall be exempted from the requirements of the Act and regulations in this part*; provided, however, that if the fur product is made of or contains any used fur, or if the fur product itself is or purports to be the whole skin of an animal with the head, ears, paws and tail, such as a choker or scarf, the fur product is to be labeled, invoiced and advertised in accordance with the requirements of the Act and regulations in this part, regardless of the cost of the fur used in the fur product.

Id. (emphasis added).

stringent labeling requirements are not enforced with respect to these goods.⁸⁵

B. International Responses to the Dog and Cat Fur Trade

The United States is not the only nation whose citizens are shocked and horrified by the international dog and cat fur trade. As a result of the HSUS investigation, Canadian consumers became alarmed that they, too, unknowingly purchased mislabeled fur items.⁸⁶ According to the Toronto Humane Society, Canada bans products made from dog or cat fur.⁸⁷ To calm consumers' fears and speculation about whether their fur-lined winter gear was made from dog or cat fur, the Humane Society of Canada set up a testing system allowing consumers to send fur samples to the University of Guelph's Veterinary College for DNA tests.⁸⁸ Although trained experts can sometimes tell whether fur is from a dog or cat by examining the hair follicles, Canada took its investigation to the next level by utilizing microscopic analysis to combat this form of consumer fraud.⁸⁹

On the other side of the Atlantic, the British also acknowledge the possibility that some consumer goods may, in fact, contain cat or dog fur.⁹⁰ A British newspaper reporter conducted an investigation on the streets of London to confirm suspicions that dogs, cats, and even ponies are used to manufacture handbags and coats.⁹¹ According to the reporter, one Chinese company, Lee International, offered him black dog overcoats and another offered him Labrador and German

85. See, e.g., Carrie Hedges & James Cox, *Dog Fur Used to Make Coats Sold in USA; Burlington Recalls a Line of Parkas After Investigation*, USA TODAY, Dec. 16, 1998, at 3A (explaining that, because the Burlington dog-fur trim parkas sold for ninety U.S. dollars each; they were exempt from federal labeling law).

86. See Paul Cantin, *Fido-Fur Coats Have Consumers Growling; SPCA Offers to Test Pelts for Dog, Cat Content*, OTTAWA SUN, Dec. 18, 1998, available in LEXIS, News Library, Non-U.S. File.

87. Will Dunham, *Fur Flies over Dog and Cat Pelts*, TORONTO STAR, Aug. 16, 1999, available in LEXIS, News Library, Non-U.S. File.

88. See Cantin, *supra* note 86 (stating that the Humane Society of Canada received over one hundred calls from the public concerning the possible use of dog and cat fur).

89. See *id.*

90. See Martin Raymond, *Hide and Seek: Would You Still Want This Season's Ponskin Bag If You Knew It Was the Real Thing? Martin Raymond Hunts Down the Secrets of the Skin Trade*, INDEPENDENT (London), Sept. 12, 1999, available in LEXIS, News Library, Non-U.S. File.

91. See *id.*

Shepherd fur.⁹² Lee International further offered to label the products as “goatskin,” “lambskin,” or simply “genuine fur,”⁹³ so as to hide the true origin of the fur. Often, retailers do not know the origin of the fur they sell, “[a]nd even if they did, there is no legislation to say that they’d have to tell consumers.”⁹⁴ According to Chris Scott-Gray of the British Menswear Council, retailers do not know the true contents of goods, but even if they did, “[t]he Clinton Principle applies—don’t ask and we won’t tell.”⁹⁵

C. State Legislation on the Use of Dog and Cat Fur

Some U.S. states enacted legislation governing the use of dog and cat fur. For example, pursuant to the California Penal Code, it is a misdemeanor to kill a dog or cat with the intent to sell or give away the animal’s pelt.⁹⁶ Georgia’s legislation makes it unlawful to “[s]ell the fur, hide, or pelt of any domestic dog or cat caught by a trap.”⁹⁷ Although this offense deals with domestic dogs and cats, Georgia includes it under the game and fish title, which deals specifically with trapping, trappers, and fur dealers. Thus, the Georgia legislation applies to dogs and cats that are both accidentally and purposely caught in traps set for wild animals. This law, enacted in 1977, however, does not constitute a response to the international fur trade that HSUS exposed in late 1998.

In contrast to laws already on the books, some states recently responded to the HSUS investigation by implementing specific legislation to combat the use of dog and cat fur. For example, on February 24, 1999, Pennsylvania introduced Senate Bill 474, which prohibits the sale of products containing dog or cat fur, skin, or hair, and directs the Bureau of Consumer Protection to conduct investigations and impose penalties on violators.⁹⁸ Similarly, on August 20, 1999, Oregon made it a misdemeanor to “take, buy,

92. *See id.*

93. *Id.*

94. *Id.* (quoting Kerry Wyler of London Animal Action).

95. *Id.*

96. *See* CAL. PENAL CODE § 598a (Deering 1998).

97. GA. CODE ANN. § 27-3-63(a)(9) (Harrison 1998). The punishment for this crime is a minimum fine of no less than one hundred U.S. dollars; a second offense within two years carries a fine of no less than three hundred U.S. dollars; a third offense, and each subsequent offense within a two-year period, carries a fine of no less than seven hundred and fifty U.S. dollars. *Id.* § 27-3-63(b)(1)-(3).

98. *See* S.B. 474, 183d Leg., Reg. Sess. (Pa. 1999). Currently, the bill is in the Committee of Consumer Protection and Professional Licensure. *See id.*

sell, barter, or otherwise exchange for commerce in fur purposes the raw fur or products that include the fur of a domestic cat or dog if the fur is obtained through a process that kills or maims the cat or dog."⁹⁹ The most recent law is New Jersey's Senate Bill 1815, which prohibits the sale of dog or cat fur and products made therefrom.¹⁰⁰

In Florida, legislation banning dog and cat fur has been introduced to the legislature, but to date, no laws have been enacted. Similar to the California Penal Code,¹⁰¹ Florida's proposed House Bill 379 criminalizes the sale of any item of clothing made in part or whole from dog or cat fur, the sale of any dog or cat pelt, or the killing of a dog or cat with the intent to sell or give away the animal's pelt.¹⁰² Although the bill died during the 1999 Session, Representative Dave Russell did not give up on the legislation and prefiled the bill for the next Florida House of Representatives session on August 23, 1999.¹⁰³ This time around, the Florida Senate also presented its own version of the House Bill, Senate Bill 150, which Senators Sebesta and Forman prefiled on September 30, 1999.¹⁰⁴

Although the Florida legislation is similar to California's Penal Code, it further curbs the business of buying and selling dog or cat fur. For example, pursuant to the Florida bill, it is a felony "to knowingly engage in the business of a dealer or buyer in the pelts or furs of any dog or cat in the state. . . . No common carrier shall knowingly ship or transport or receive for transportation any dog or cat pelts or furs within the state."¹⁰⁵ This legislation seems to acknowledge that dog and cat fur industries are a problem in

99. 1999 Or. Laws 995 (originally introduced as Senate Bill 1168 on April 1, 1999).

100. See S.B. 1815, 208th Leg. (N.J. 1998). The New Jersey Assembly passed this bill on December 9, 1999 and the Governor signed it on January 4, 2000. See *id.*

101. See CAL. PENAL CODE § 598a (Deering 1998).

102. See H.B. 379, 101st Leg., Reg. Sess. (Fla. 1999). This bill was prefiled on January 26, 1999, went to the House Interim Committee on Agriculture, the House Committee on Crime and Punishment, and the House Committee on Criminal Justice Appropriations. See *id.* The bill died on calendar on April 30, 1999 and did not carry over to the next session. See *id.*

103. See H.B. 55, 102d Leg., Reg. Sess. (Fla. 2000). The House Interim Committee on Agriculture and the House Interim Committee on Crime and Punishment reported favorably on the bill, and as of November 3, 1999, the bill is pending in the House Committee on Criminal Justice Appropriations. See *id.* On March 7, 2000 the bill was officially introduced to the legislature. See *id.*

104. See S.B. 150, 102d Leg., Reg. Sess. (Fla. 2000).

105. Fla. H.B. 55.

Florida, but Representative Russell admits that he knows of no specific instances of dog or cat fur trade in the state.¹⁰⁶ Further, there are no records on file with the State Attorney General or the Department of Agriculture and Consumer Services of any complaints about dog or cat fur.¹⁰⁷

Representative Russell explained that "[t]he bill is proactive . . . We want to nip this thing in the bud. We don't want to see cottage industries springing up where they raise dogs and cats for this."¹⁰⁸ Russell said that the legislation was a response to angry constituents who viewed a television segment about the HSUS investigation.¹⁰⁹ Admittedly, Russell sponsored the legislation at the HSUS's request—one writer commented that this legislation is a "pet project with bite."¹¹⁰

Major concerns arise regarding the new state legislative schemes, the purpose of which is to curb the use of dog and cat fur in commercial goods. First, the HSUS investigation focused only on the slaughter of dogs and cats in China, Thailand, and the Philippines.¹¹¹ There is no evidence suggesting that dogs and cats are slaughtered in the United States for the international fur trade. Thus, the new anti-pet-fur laws may be a simple way for legislators to increase their popularity by supporting a relatively uncontroversial cause. Interestingly, Representative Russell, now in his second year as a legislator,¹¹² does not expect any major opposition to the bill.¹¹³

Second, enforcing and prosecuting violations of dog and cat fur legislation is problematic. Although the laws seem workable, how often will law enforcement personnel seek out illegal fur traders? It seems doubtful that special "Fur Vice Squads" will spring up across the nation to combat the evils of dog and cat fur. If a fur crime only constitutes a misdemeanor carrying a small fine, prosecuting attorneys will be unwilling or unable to devote the time and resources necessary to press charges against violators.

106. See Nitkin, *supra* note 13.

107. See *id.*

108. *Id.*

109. See Michael Peltier, *Lawmakers on Trail of Pelt Scalpers*, PRESS JOURNAL (Vero Beach, Fla.), Feb. 22, 1999, at A11.

110. David Wasson, *Lawmaker Aims to Stop Real Life Cruella De Vils*, TAMPA TRIB., Nov. 1, 1999, at Florida/Metro 1.

111. See HUMANE SOCIETY OF THE UNITED STATES, *supra* note 31, at 2.

112. See Wasson, *supra* note 110, at Florida/Metro 1.

113. See Peltier, *supra* note 109, at A11.

Although states generally seek to protect citizens' health and welfare,¹¹⁴ the hateful use of cat and dog fur in goods certainly will not take precedence over existing criminal issues.

IV. THE FUTURE: THE DOG AND CAT PROTECTION ACT OF 1999

A. *The Newest Federal Dog and Cat Fur Legislation*

In early 1999, as a direct response to the HSUS investigation, the Dog and Cat Protection Act of 1999 (DCPA)¹¹⁵ was introduced to the U.S. Senate and House of Representatives. The DCPA's stated purpose is "[t]o prohibit the importation of products made with dog or cat fur, to prohibit the sale, manufacture, offer for sale, transportation, and distribution of products made with dog or cat fur in the United States, and for other purposes."¹¹⁶ This federal legislation is a response¹¹⁷ to the recognized loophole in the FPLA, which exempts goods valued at less than one hundred and fifty U.S. dollars from the labeling requirements.¹¹⁸

Specifically, the DCPA acknowledges that dog and cat fur products are included in a variety of items imported into the United States including jackets, hats, gloves, and toys.¹¹⁹ The DCPA also recognizes that "[t]he methods of housing, transporting, and slaughtering dogs and cats for fur production are

114. See generally *Manigault v. Springs*, 199 U.S. 473, 480 (1905) (explaining that police power is "an exercise of the sovereign right of the Government to protect the lives, health, morals, comfort and general welfare of the people"); see also generally *Berman v. Parker*, 348 U.S. 26, 32 (1954) (mentioning that "[p]ublic safety, public health, morality, peace and quiet, law and order—these are some of the more conspicuous examples of the traditional application of the police power to municipal affairs").

115. Dog and Cat Protection Act of 1999, S. 1197, 106th Cong. (1999); H.R. 1622, 106th Cong. (1999). Senator William Roth, Jr. (R-Del.) introduced Senate Bill 1197 to the U.S. Senate on June 9, 1999. See [106th Congress 1999–2000] 1 Cong. Index (CCH) 14,216 (1999). Representative Gerald D. Kleczka (D-Wis.) introduced H.R. 1622 to the House of Representatives on April 29, 1999. See [106th Congress 1999–2000] 2 Cong. Index (CCH) 28,257 (1999).

116. S. 1197; H.R. 1622.

117. See Brian Mooar, *Legislation Would Ban Imports of Cat, Dog Fur*, WASH. POST, June 10, 1999, at A8 (quoting Rep. Kleczka, "[t]he current law does nothing to stop the sale of these deplorable products. We should end this inhumane treatment of dogs and cats once and for all."). Senator Roth commented, "With this legislation, our message will be clear: [n]o matter where in the world merchandise is made, there will be no legitimate market for it here—not in the United States." *Id.*

118. See 16 C.F.R. § 301.39 (1994).

119. See S. 1197 § 2(a)(1); H.R. 1622 § 2(a)(1).

generally unregulated and inhumane."¹²⁰ The Act's ultimate goal is "to require accurate labeling of fur species so that consumers in the United States can make informed choices."¹²¹

To close the loophole in the FPLA, the DCPA proposes to amend the FPLA by striking the provision exempting articles of "relatively small quantity or value" from the labeling requirements, so that goods costing less than one hundred and fifty U.S. dollars¹²² would undoubtedly fall under FPLA regulation.¹²³ Additionally, the DCPA imposes stiff civil and criminal penalties for violations of the Act, including a civil penalty of no more than twenty-five thousand U.S. dollars for each violation¹²⁴ or imprisonment for up to one year with the possibility of additional fines.¹²⁵ Rather than merely punishing repeat offenders, the DCPA imposes an injunction against any person who violates the Act, thus precluding the further sale of any fur products.¹²⁶

In terms of enforcement, the DCPA provides that a "duly authorized officer" may inspect and/or seize the fur goods.¹²⁷ The process for seizing items that the officer suspects are made of dog or cat fur is as follows:

If a duly authorized officer has reasonable cause to believe that there has been a violation of this Act or any regulation issued under this Act, such officer may search and seize, with or without a warrant, the item suspected of being the subject of the violation, and may arrest the owner of the item. An item so seized shall be held by any person authorized by the Secretary pending disposition of civil or criminal proceedings.¹²⁸

The problem lies in what constitutes "reasonable cause," in terms

120. S. 1197 § 2(a)(5); H.R. 1622 § 2(a)(6).

121. S. 1197 § 2(b)(2); H.R. 1622 § 2(b)(3).

122. See 16 C.F.R. § 301.39.

123. See S. 1197 § 5; H.R. 1622 § 5.

124. See S. 1197 § 7(a); H.R. 1622 § 7(a).

125. See S. 1197 § 7(b); H.R. 1622 § 7(b).

126. See S. 1197 § 7(d); H.R. 1622 § 7(d). See also 145 CONG. REC. E857 (daily ed. May 5, 1999) (statement of Rep. Gerald D. Kleczka mentioning that the DCPA would prevent and discourage foreign importers from establishing operations in the United States).

127. See S. 1197 § 6(b)-(c); H.R. 1622 § 6(b)-(c). "Duly authorized officer" is defined under the DCPA as "any United States Customs officer, any agent of the Federal Bureau of Investigation, or any agent or other person authorized by law or designated by the Secretary [of the Treasury] to enforce the provisions of this Act." S. 1197 § 3(9); H.R. 1622 § 3(9).

128. S. 1197 § 6(c); H.R. 1622 § 6(c).

of the officer believing that certain goods are made of dog or cat fur. It certainly does not seem reasonable that officers will have immediate access to DNA or lab testing when they encounter fur goods. Thus, the average customs officers who enforce these provisions must be trained to identify dog or cat fur; but, even as the DCPA recognizes, "dog and cat fur, when dyed, is not easily distinguishable . . . from other furs."¹²⁹ Because of the difficulties involved in identifying the fur, it is questionable whether officers will be permitted to examine the circumstances surrounding the fur's sale, such as who possesses it or the country from which it is imported. If officers can make this further investigation, then some Asian countries' fur goods may be subject to closer scrutiny, especially in light of the HSUS investigation.¹³⁰ To take it a step further, if an Asian or Asian-American entrepreneur owns a fur business, he or she may be more likely than someone of another ethnic group to be the subject of an officer's "reasonable suspicion."¹³¹

Although legislators claim that the DCPA bans mislabeling, which will result in increased consumer and retailer confidence, the legislation contains some inconsistencies. For example, buyers would no longer enjoy complete freedom of choice when purchasing fur products in that even if a consumer felt comfortable purchasing an item made with dog or cat fur, because the item would be illegal, the consumer would be prohibited from so doing. On the other hand, the current FPLA simply requires that the label truthfully state the name of the animal from which the fur

129. S. 1197 § 2(a)(3); H.R. 1622 § 2(a)(4).

130. See HUMANE SOCIETY OF THE UNITED STATES, *supra* note 31, at 2.

131. Just as Drug Enforcement agents stop persons based on certain drug courier profiles, do "dog fur courier profiles" loom on the horizon? See *generally* United States v. Mendenhall, 446 U.S. 544, 547 (1980) (explaining that defendant, a black woman, fit a drug courier profile, and therefore Drug Enforcement Agency (DEA) agents approached her); see also *generally* United States v. Solokow, 490 U.S. 1, 3 (1989) (noting that DEA agents relied on a drug courier profile in deciding to stop defendant and holding that despite this information, reasonable suspicion existed, even if it was, in part, embodied in the profile description).

Perhaps certain traits make it more or less likely for an investigator to stop a person with the belief that he or she is an illegal fur seller based on current available information about the international fur trade. For example, if someone who deals in the fur business, clothing business, or any other importing enterprise traveled to or from an Asian country, especially China, which is a "source country" for dog and cat fur, he or she may be a likely target for a search and seizure of fur goods based on his or her profile. Cf. *Solokow*, 490 U.S. at 3 (noting that Miami, Florida is a "source city" for narcotics).

came¹³²—it does not purport to ban use of any particular fur from the United States.¹³³

Clearly, the DCPA *would* ban all imports and exports of dog or cat fur entering or leaving the United States.¹³⁴ Thus, even if an item's labels accord with the FPLA, for example, a fur-trimmed coat labeled as "domestic cat," the DCPA would totally prohibit the item's sale or distribution in the United States because cat fur products would be illegal. Furthermore, the DCPA imposes U.S. ideologies regarding the value of select animals on other nations and directly attacks non-illegal practices in foreign nations that are free to determine how they treat dogs and cats.¹³⁵ The United States cannot legislate for other nations: "you can have Iran, Iraq or China exercising power, doing things internal to its country that we would find abhorrent and there is nothing we can formally do about that regime."¹³⁶

Equally problematic is the DCPA's special exception for only dogs and cats, while other fur-bearing animals, irrespective of the inhumane slaughtering to which they are subject, remain unprotected. Section 2(a)(3) of the DCPA points out that:

dog and cat fur, when dyed, is not easily distinguishable to persons who are not experts from other furs such as fox, rabbit,

132. See 15 U.S.C. § 69b(2)(A) (1994).

133. Obviously, trade in certain types of fur or skin products is illegal due to legislation such as the Convention on the International Trade in Endangered Species (CITES), which protects certain wild endangered animals and plants. See Convention on the International Trade in Endangered Species, *opened for signature* Mar. 3, 1973, 27 U.S.T. 1087. Under this international treaty, domestic dogs and cats are not protected classes of animals. See *id.* app. I, 27 U.S.T. at 1118–1131. For a discussion of CITES' application, see generally Meena Alagappan, *The United States' Enforcement of the Convention on International Trade in Endangered Species of Wild Fauna and Flora*, 10 NW. J. INT'L L. & BUS. 541 (1990). CITES protects 1,500 species of fauna and flora. See *id.* at 546.

134. See S. 1197 § 4(b); H.R. 1622 § 4(a).

135. See, e.g., David Farve, *Third Annual Conference on Animals and the Law*, 15 PACE ENVTL. L. REV. 467 (1998). Farve argues that:

We, in the United States, have a cultural perception of obeisance of the law. That is not to say everybody obeys every law but our culture is one in which we try to obey our laws. The law is not something we just ignore. Because of this culture of legalism, when you look at all 180 countries, we are somewhat unique in the world. Thus, the way people view the law is one of the difficulties in dealing with international laws since people will look at things and just walk away from it. If that happens, what can be done about it? *If you are in the United States and you do not like what just happened somewhere in the world, there is nothing you can do about it because you do not have any leverage.*

Id. at 470 (emphasis added).

136. *Id.* at 471.

coyote, wolf, and mink. Dog and cat fur is generally less expensive than other types of fur and may be used as a substitute for more expensive types of furs.¹³⁷

At the same time, one of the DCPA's enumerated purposes is "to prohibit the trade in, both imports and exports of, dog and cat fur products, to ensure that the United States market does not encourage the slaughter of dogs or cats for their fur, and to ensure that the purposes of this Act are not undermined."¹³⁸ The fact that Congress wants to protect dogs and cats from being slaughtered for their fur, but at the same time, refuses to address the circumstances surrounding the demand for the fur, demonstrates the hypocrisy of this situation. Congress realizes that the cheap, easily obtained dog and cat fur is a convincing substitute for traditionally used fur-bearing animals such as fox, mink, and rabbit.¹³⁹ Congress appears to have no problem with the fur trade in general, as it long as it does not involve dogs and cats. In effect, Congress elevates only dogs and cats to a protected level; other species less deserving of protection remain acceptable fur-producers.

B. Emotion Versus Good Lawmaking: A Critical Approach to the Dog and Cat Protection Act

By generally demonstrating no concern for the established fur market, which creates the demand for dog and cat fur, Congress implies that consumers may wear fur, as long as the fur does not come from beloved traditional pet animals. The situation is akin to treating only the symptoms of a disease when a cure exists that could eradicate the disease entirely. Dogs and cats are popular household pets in the United States, which is home to approximately fifty-three million dogs and fifty-nine million cats.¹⁴⁰ It is not surprising that Wisconsin Representative Gerald Kleczka is a dog-lover, who often brings his dog, Colby, to his office once a week.¹⁴¹ Likewise, Delaware Senator William Roth, Jr. commented, "I have been profoundly affected in my life because of the animals that transcended emotional boundaries to

137. S. 1197 § 2(a)(3); H.R. 1622 § 2(a)(3).

138. S. 1197 § 2(b)(3); H.R. 1622 § 2(b)(3).

139. See S. 1197 § 2(a)(3); H.R. 1622 § 2(a)(3).

140. See Dunham, *supra* note 87.

141. See *id.*

become true and meaningful friends—even a part of the family. I can name every dog I've owned since I was a boy.”¹⁴²

Considering the information available about the thriving U.S. fur industry, and the widespread accounts of animal suffering that the manufacture of all fur products entails, it is ineffective for Congress to single out and protect only a few favorite species against inhumane slaughter. If the DCPA becomes law, it is certainly feasible that other unprotected or non-endangered species could have their own protective legislation, such as a “Mink Protection Act” or “Fox Protection Act.” Such legislative action is unlikely to arise, however, until U.S. citizens realize that dogs and cats are not the only animals to which humans bond. As long as there is a healthy market for fur products, animal suffering will continue, regardless whether the dogs are butchered in China or the minks are electrocuted in the United States.¹⁴³

Additionally, the DCPA poses an interesting dichotomy between U.S. citizens' love for dogs and cats and the perceived mistreatment of these animals by certain Asian nations. In fact, according to the DCPA “Findings and Purposes” Section, “[a]n estimated 2,000,000 dogs and cats are slaughtered and sold annually as part of the international fur trade.”¹⁴⁴ The HSUS investigation is the source of this information, upon which legislators relied heavily when making presentations for the DCPA.¹⁴⁵ Interestingly, because the HSUS investigation focused on Asian nations, there is no mention of the plight of unwanted and abused dogs and cats in the United States.

While China and other Asian nations slaughter two million dogs and cats per year for the fur trade, the United States euthanizes up to ten million of these animals per year.¹⁴⁶ Congress

142. 145 CONG. REC. S6791 (daily ed. June 9, 1999) (statement of Sen. Roth).

143. See generally People for the Ethical Treatment of Animals (PETA) *Consumer Fraud at Fur Salons* (visited Nov. 3, 1999) <<http://www.furisdead.com/fraud.html>> (discussing the unregulated U.S. fur industry that keeps animals like foxes, beavers, and mink in crowded cages and utilizes killing methods such as neck-breaking, poisoning, and anal or genital electrocution).

144. S. 1197 § 2(a)(1); H.R. 1622 § 2(a)(1).

145. See 145 CONG. REC. E857 (daily ed. May 5, 1999) (statement of Representative Kleczka mentioning the *Dateline NBC* broadcast of HSUS investigative findings). Representative Kleczka also admits that “[w]hile crafting this measure, I contacted the Humane Society of the United States for their [sic] input.” *Id.*

146. See Animal Rights Resource Site, *Hidden Holocaust: The Overpopulation Crisis* (visited Nov. 3, 1999) <<http://arrs.envirolink.org/fund/facts/overpop.html>>. “Euthanasia is the single largest cause of death for dogs and cats in the [United States].” *Id.* Americans

and the public were outraged when the HSUS investigation surfaced, and immediately pointed fingers accusingly at China.¹⁴⁷ In all of the reports on the dog and cat fur trade, two million animals slaughtered per year in China sounds like an awfully high number. In reality, it is just as tragic that even more unwanted dogs and cats are killed on U.S. soil. As Congress crusades to save Chinese dogs and cats, U.S. animals languish on the streets or in shelters and, tragically, are often eventually destroyed.¹⁴⁸ Perhaps Congress should focus its energy on the problems in the United States rather than merely drawing attention to international situations.

C. The Fur Industry: Counterarguments Supporting Fur Use

In the 1980s, many animal protection groups began aggressively attacking the fur industry.¹⁴⁹ This anti-fur campaign, which sought to raise public consciousness about cruel trapping and farm-raising methods of fur-bearing animals, eventually led to

spend over one billion dollars every year destroying dogs and cats:

Five to ten million we classify as 'surplus' and kill. That's about one million per month. These numbers *do not* include the millions of dead dogs and cats whose bodies we scrape off the streets, or the hundreds of thousands of abandoned, severely neglected or abused ones who never make it to our shelters to be counted and killed. The five to ten million figure represents those we 'must' kill because they are unwanted. Most of these animals are young and healthy; in fact, it is estimated that a majority are less than one year of age.

Id.

147. In the dog fur trade, stray or lost animals are sometimes subject to slaughter for their fur. For example, in Mongolia, the trade in dog pelts grew out of a government-endorsed eradication program to eliminate the number of stray animals. See HUMANE SOCIETY OF THE UNITED STATES, *supra* note 31, at 2.

148. It is important, however, to maintain the distinction between humane methods of "putting down" unwanted animals through euthanasia, as is done in the United States, and the brutal methods employed in the dog and cat fur trade. As the following account illustrates, there is a fundamental difference between humane treatment of animals and cold, brutal abuse.

Two men with heavy sticks stood ready atop the roof with a low structure onto which the dogs were unloaded. One dog after another, howling in terror, was pulled from the truck with a wire noose attached to a wooden pole. In plain view of the animals still inside the truck, each dog was clubbed several times over the head and on the nose. The dogs screamed in pain. The victims were then thrown to the ground and dragged off by other workers to an area where their throats were slit. In graphic footage, investigators captured some dogs still moving their tails just before their throats were cut.

HUMANE SOCIETY OF THE UNITED STATES, *supra* note 31, at 10–11.

149. See HELENA SILVERSTEIN, UNLEASHING RIGHTS: LAW, MEANING, AND THE ANIMAL RIGHTS MOVEMENT 109 (1996).

a decline in fur sales.¹⁵⁰ To combat animal activists' claims, the fur industry launched its own campaign focusing on freedom of choice, particularly, the right to make personal choices about everyday living, including wearing clothing made from animal components.¹⁵¹

Two major pro-fur organizations claim to support animal welfare and high standards of care for fur-bearing animals: the Fur Information Council of America (FICA) and the International Fur Trade Federation (IFTF). These pro-fur organizations purportedly advocate animal welfare by maintaining high standards of animal care and engaging in wildlife conservation efforts.¹⁵² According to FICA statistics (based on an unnamed survey), eighty-six percent of U.S. citizens believe the decision to wear fur should be a matter of personal choice.¹⁵³ FICA also argues that because freedom of choice is a popular right in the United States, the choice to wear fur is a personal freedom upon which the government cannot infringe.¹⁵⁴ Because the United States is home to the largest global fur market, FICA views animal rights groups as especially threatening; citing yet another unnamed survey, FICA alleges that ninety-six percent of U.S. citizens disapprove of the tactics animal rights activists use.¹⁵⁵

Similar to FICA, IFTF claims to be dedicated to the conservation and well-being of all animals.¹⁵⁶ Established in 1949, IFTF purports to be the "United Nations of the world's fur industry."¹⁵⁷ IFTF boasts of its commitment to wildlife and conservation projects and works through the international media to promote understanding of the fur industry and the fur trade.¹⁵⁸

150. *See id.*

151. *See id.* at 109-110.

152. *See* Fur Information Council of America (FICA), *Home Page* (visited Nov. 3, 1999) <<http://www.fur.org/>>.

153. *See id.* Fur Fashion Section.

154. *See id.*

155. *See id.* Animal Welfare Section. FICA also claims that "the information provided by animal rights groups is often misleading and, in many cases, inaccurate and meant to prey on the emotions of caring people." *Id.* The contrasting ideologies of animal rights and animal welfare groups is beyond the scope of this Comment. These movements are two separate ideologies with different agendas. For a discussion of this topic, see generally SILVERSTEIN, *supra* note 149, at 27-54, 81-122.

156. *See* International Fur Trade Federation (IFTF), *Home Page* (visited Nov. 3, 1999) <<http://www.iftf.com/>>.

157. *Id.* About Us Section.

158. *See id.*

IFTF adopts an interesting angle on fur production, and claims that it preserves cultures for native peoples and small family farms where the fur business is generations old: “[t]he fur trade was one of the few sectors of the European economy in which aboriginal hunters could participate while maintaining—and reinforcing—their traditional lifestyle and culture.”¹⁵⁹

In light of the ideologies pro-fur organizations embrace concerning freedom of choice, it is somewhat puzzling that they condemn the dog and cat fur trade. First, although both FICA and IFTF adamantly oppose the use of endangered species for fur garments, dogs and cats are by no means in danger of extinction. Second, these fur organizations heartily support U.S. citizens’ freedom of fur choice. Therefore, it is not unreasonable to infer that these organizations would not object to the use of dog and cat fur. During the media frenzy accompanying the Burlington Coat Factory scandal, however, FICA quickly and clearly condemned the use of dog and cat fur.¹⁶⁰

D. Protecting Animals by Using Fur Alternatives

The “privilege to wear fur versus the desire to protect all animals from unnecessary cruelty” debate is by no means a new one. Early in the twentieth century, the U.S. Society for the Prevention of Cruelty to Animals and the American Humane Association sought to educate the public about the suffering and cruelty inherent in trapping animals.¹⁶¹ These organizations solicited the assistance of celebrities, such as actress Minnie Maddern Fiske, to speak against the use of steel traps for the purpose of collecting fur:

The wearing of furs is merely the persisting into modern life of a prehistoric and now unnecessary custom. Our ancient sisters in their savagery knew no other way to cover their nakedness than by tearing skins from the bodies of animals. There was a

159. *Id.* International Fur Trade Today Section.

160. See Burney, *supra* note 8, at C5 (quoting Stephanie Kenyon, spokeswoman for FICA in Washington: “[o]ur position is that dog and cat fur should not be sold in the United States. . . . Culturally, it goes against our grain to do so. It’s just not something we want to see happening.”).

161. See generally AHIMSAKA, FROM THUMBSCREW TO STEEL TRAP (New York, American Soc’y for the Prevention of Cruelty to Animals n.d.) (seeking to educate the American public on various fur-trapping methods; jointly published by the American Society for the Prevention of Cruelty to Animals and the American Humane Association).

time when man ate man. That time has passed. The steel trap will pass when women understand what the steel trap is—the most fiendish device of arrest ever invented by the human brain.¹⁶²

Additionally, anti-fur activists condemned the economic motive to continue to trap animals for fur garments. These activists recognize that two conditions must exist to support the torture of animals: “a cruel active minority and an indifferent passive majority. We have here a third also, the motive, which is directly economic, without high moral pretensions, but backed by selfish whims for vain display.”¹⁶³ The argument is simple—if there is no demand for fur items, there is no reason to slaughter animals for their fur.¹⁶⁴

Modern animal rights writers also look to economics and vanity when assessing the current treatment of animals. For example, according to author Peter D. Wilson, “[t]he easiest cruelty to eliminate, and therefore the most abhorrent, is that which is caused by vanity. There is no conflict in interests here; the suffering is borne solely by the animals. What necessity is there in fur coats, leather jackets, lizard skin boots, ivory sculptures, or musk perfume?”¹⁶⁵ Anti-fur campaigners seek to increase public awareness about fur issues with hopes of creating a less successful fur industry.¹⁶⁶ Anti-fur advocates often support the ethical standpoint that it is unnecessary to continue inhumanely killing animals for fur when alternative humane methods exist.¹⁶⁷

Anti-fur supporters now offer an alternative to fur coats—“Evolutionary Fur,” which is a synthetic material that arrived just in time for the 1999 fall fashion season.¹⁶⁸ Not surprisingly, the HSUS sponsored this alternative with the hope that the use of

162. *Id.* at 4.

163. *Id.* at 64.

164. *See generally id.* (explaining the continuation of a practice for economic incentive until an overall shift in social attitudes effectuates change).

165. Peter D. Wilson, *Secular Ethics and Animals Rights* (visited Nov. 3, 1999) <http://arrs.envirolink.org/ar-voices/secular_ethics.html>.

166. *See* World Animal Net, *The Anti-Fur Campaign* (visited Nov. 3, 1999) <<http://worldanimal.net/fur-index.html>>.

167. *See id.*

168. *See* Trish Donnally, *Animal Rights Activists Continue to Pelt Fur Trade*, SAN FRANCISCO CHRON., Aug. 9, 1999, at A11.

synthetics will eventually phase out all fur trim.¹⁶⁹ Although new fur alternatives may be appealing, it is unlikely that U.S. citizens will completely abandon fur any time soon. Fur garments remain status symbols of wealth and luxury, with women's magazines advertising them as fashionable.¹⁷⁰ IFTF claims that fur sales are increasing, especially due to leading designers working with fur, even if only with trim pieces.¹⁷¹ The fur industry's continued success depends on consumer demand for fur products, and with this demand, comes the need for inexpensive, readily available fur. In the end, consumers will get their fur, but they run the risk of never knowing what kind of fur they buy or how it was harvested.

V. CONCLUSION

It is very easy to be impassioned over issues such as the use of dog and cat fur. Pets become loved and cherished lifelong friends. The HSUS investigation uncovered brutalities committed against pet animals in China, Thailand, and the Philippines, which lead U.S. citizens to criticize Asian nations for their practices and demand immediate action to stop the dog and cat fur trade. The answer to ending the slaughter of dogs and cats lies not in condemning these nations for their internal practices, but rather the consumers of these goods must exercise their economic power to decrease the demand for these items. Fur is fur, whether it comes from a dog or cat or from a wild animal. Additionally, it is unthinkable that the United States can legislate away a situation that is taking place in foreign nations. While China's lack of law to protect dogs and cats in the fur trade seems cold and heartless, it is ironic that there are so many stray, suffering dogs and cats on U.S. streets.

The thought of wearing a dog fur coat repulses most U.S. citizens, yet it remains culturally acceptable to wear fox fur. Most everyone also agrees that it is awful to brutally kill pet animals,

169. *See id.* The cost of Evolutionary Fur is a fraction of the cost of real fur, thus providing an added incentive for manufacturers to use synthetics. Evolutionary Fur coats will cost between 500 and 1,000 U.S. dollars; a Russian sable jacket costs 100,000 U.S. dollars. *See id.*

170. *See, e.g.,* ALLURE, Dec. 1999, at 118, 120; VOGUE, Nov. 1999, at 81-88, 99-100, 223, 437.

171. *See* International Fur Trade Federation, *supra* note 156, International Fur Trade Today Section (mentioning that annual fur sales in the United States increased by ten percent in 1995 to \$1.2 billion, with another increase of five percent in 1996).

which is the view popular films like *101 Dalmatians* promulgate. This same sentiment led politicians to introduce legislation like the Dog and Cat Protection Act of 1999 and various other state bills.¹⁷² No one argues against protecting dogs and cats, and legislators deservedly receive praise for defending these innocent, adorable animals.

Nevertheless, the legislators and the general public do not examine the root of the dog and cat fur situation, namely, the reasons for the demand for the fur is left unaddressed. The DCPA only scratches the surface of the widespread cruelty inherent in the fur industry. Dogs and cats slaughtered for fur is the perfect topic for inviting public scrutiny on the fur industry as a whole. People easily relate to dogs and cats because of their widespread interaction with them on a daily basis in homes throughout the United States. People often view dogs and cats as possessing human traits such as loyalty, affection, and intelligence. To abolish the fur trade completely, however, U.S. citizens must transfer their love and understanding of dogs and cats to all animals.

Why do Californians punish those who kill dogs and skin them, yet fur farmers in the mid-west who slaughter hundreds of thousands of mink each year go unpunished and are monetarily rewarded for their efforts? The distinction between household pets and popular fur-bearing animals such as mink, foxes, and sables is an arbitrary one. All animals are capable of experiencing pain and suffering; it does not make sense to afford certain species special protection against cruelty while others live and die in deplorable conditions. If all species were considered equally important and worthy of protection, U.S. citizens would not need legislation like the DCPA.

Conversely, the fact that the DCPA exists testifies to a willingness to scrutinize and reevaluate beliefs about fur use. Even if the DCPA does not become law in the United States, the fact that it is even in committee and has various legislators' and organizations' support speaks volumes about U.S. citizens' mindset regarding the dog and cat fur trade. If nothing more, the DCPA, and the publicity surrounding the dog and cat fur trade, can open a new dialogue among consumers, who are now armed with more information about the true origin of fur products. Ultimately, legislation will only curb the international trade in dog and cat fur

172. See *supra* Part III.C (discussing various state legislation).

if U.S. citizens and consumers worldwide recognize that they hold the ultimate power to effectuate change. As long as people view fur products as beautiful, stylish, and desirable, animals will be killed for their fur. Because consumers want affordable goods, furriers must find methods to produce cheap, easily accessible fur. Dogs and cats are plentiful, easy to procure, and produce beautiful fur. Even if labeling laws become stricter or fines larger, consumers and their dollars have the power to keep dog and cat fur traders in business indefinitely.

Above all, it is necessary to address and discuss the issue of the fur industry no matter how uncomfortable and horrific it seems. Instinctively, it is easier to turn away, refuse to read about the slaughter of dogs and cats, or change the channel when a graphic news report airs on television. But the only way to effectuate meaningful change is to become informed about all the issues. Once U.S. citizens open their eyes to animal cruelty, a new awareness will emerge. Hopefully, stories about the mistreatment of animals will be met with public outrage and demand for change. Although U.S. citizens cannot change the practices used in other nations, they can raise their own level of awareness by confronting issues like the trade in dog and cat fur.

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