

TEMPORARY SUSPENSION OF DUTY ON CERTAIN
HORSES

 AUGUST 1, 1974.—Ordered to be printed

Mr. LONG, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 13631]

The Committee on Finance, to which was referred the bill (H.R. 13631) to suspend for a temporary period the import duty on certain horses, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. SUMMARY

House bill.—The House bill would suspend until July 1976 the duty on horses other than for immediate slaughter. The committee bill does not modify the House bill, but includes an amendment unrelated to the subject matter of the House bill.

Committee amendment.—The committee amendment relates to Medicare; it extends to providers the right of judicial review of a decision by the Provider Reimbursement Review Board to include any Board decision and any subsequent affirmation, modification or reversal of that decision by the Secretary, and provides that the amount in controversy shall be subject to annual interest beginning six months after the determination.

II. GENERAL STATEMENT

A. DUTY SUPERVISION ON HORSES OTHER THAN FOR SLAUGHTER

At the present time, horses for immediate slaughter, thoroughbreds for breeding purposes, and race horses returned to the United States after being used abroad solely for racing purposes may be imported into the United States duty free under items 100.70, 100.01, and 802.40, respectively, of the Tariff Schedules of the United States

(TSUS). Other horses, however, are presently dutiable under item 100.73 (relating to horses valued not over \$150 per head) at \$2.75 per head, or item 100.75 (relating to horses valued over \$150 per head) at 3 percent ad valorem. These are the rates applicable under rate column numbered 1 of the TSUS which apply to countries accorded most-favored-nation treatment.

H.R. 13631 would add new provisions in the Appendix to the TSUS to suspend these duties for a temporary period, until the close of June 30, 1976, thus providing a uniform duty free rule under column numbered 1 for horses imported for any purpose. The bill, however, would not affect the present rates of duty under rate column numbered 2 of the TSUS (applicable to communist countries, except Poland and Yugoslavia).

The present tariff structure for horses operates discriminatorily among different breeds. For example, as indicated above, horses may be imported duty free for breeding purposes under item 100.01. This rule applies, however, only if they are certified by the Department of Agriculture as being of a recognized breed and duly registered on a book of record recognized by the Secretary of Agriculture for that breed. Since the American Quarter Horse does not qualify under these criteria, importers of such horses for breeding purposes are required to pay duty, usually under item 100.75 at 3 percent ad valorem, while other breeds may be entered duty free. Enactment of H.R. 13631 would suspend this discriminatory treatment for a temporary period, during which the new rule's operation may be studied to determine if it should be made permanent, allowed to expire, or continue for an additional temporary period.

The committee believes that H.R. 13631 would also eliminate problems at the borders associated with valuation. The valuation of foals, horses yet to have been raced, and similar cases is always difficult for customs officials. Moreover, valuation and bonding problems arise particularly with respect to race horses entering the United States for participation in claiming races. Claiming races are designed to assure that horses of as nearly equal caliber as possible are matched in any given race; hence, the rule in such races is that any horse in the race may be claimed, that is, purchased, for the claiming price. The Department of Commerce, which favors enactment of this bill, has provided the following information respecting the cumbersome and often penalizing operation of present bonding procedures in the case of horses entering the United States and participating in claiming races:

The suspension of the import duty on horses would serve several useful purposes. Horses entering the United States for racing must obtain either a single-entry or term bond for temporary importation. The procedures for the single-entry bond require the importer to establish a surety bond at the time of entry for an amount twice the *ad valorem* duty. The bond is valid for one year with two one-year extensions permissible. If the horse is not returned within this period, the bond is breached. Similarly, under the term-bond procedures, a surety bond with a minimum value of \$10,000 (after January 16, 1974) is required to be made by the importer. The term bond is honored at all ports of entry, for any number of crossings, and for a one-year period, although two one-

year extensions are allowable. Consonant with the procedures under the single entry bond, the term bond is forfeited if the horse is not returned within the one-year period or any extension thereof.

The bonding procedures outlined above are particularly burdensome to the horsemen who import horses for claiming races in the United States. The majority of races in the United States are claiming races. Claiming races are designed to ensure that the horses in any specific race are of comparable ability by requiring that all horses in the race may be purchased at a price established for the particular race. For example, horses running in \$5,000 claiming races may be purchased for \$5,000. Of course, the importer of a horse sold in a claiming race which is not returned to the country of origin within the prescribed time limits would have his bond forfeited. Suspension of the duty would eliminate the bonding requirements for the importer.

The above problems of customs valuation and their attendant administrative expenses and difficulties loom particularly large when compared with the minimal revenues derived from the duty on horses, i.e., a total of approximately \$176,000 in 1973.

The committee believes that enactment of H.R. 13631 is necessary to alleviate these problems and eliminate the current disparate and inequitable rules relating to imports of horses. The temporary suspension of duty, as indicated above, will afford an opportunity for study respecting the desirability of continuing or making permanent the treatment that would be provided under the bill's provisions.

The committee has received favorable reports on this legislation from the Departments of State, and Commerce.

B. JUDICIAL REVIEW OF DECISIONS OF THE PROVIDER REIMBURSEMENT REVIEW BOARD

Under present law, a fiscal intermediary under medicare determines the amount of reasonable cost to be paid to a provider of services. P.L. 92-603 provided for the establishment of a Provider Reimbursement Review Board, composed of five members knowledgeable in the field of health care reimbursement who are appointed by the Secretary of Health, Education, and Welfare; a provider can appeal reimbursement determinations before this Board under certain conditions.

A provider of services which has filed a timely cost report may appeal to the Board an adverse final decision of the fiscal intermediary where the amount at issue is \$10,000 or more. Groups of providers may appeal adverse final decisions of the fiscal intermediary where the amount at issue aggregates to \$50,000 or more. Any provider that believes its fiscal intermediary has failed to make a timely cost determination on its annual cost report or a timely determination on an acceptable supplementary filing may appeal to the Board where the amount involved is \$10,000 or more. A decision of the Provider Reimbursement Review Board is final unless the Secretary on his own motion reverses or modifies the Board's decision adversely to the provider. Under present law, the provider has a right to judicial review

of the decision *only* where the Secretary has caused such reversal or modification.

The committee provision would give to providers of services the right to judicial review of any Provider Reimbursement Review Board decision, as well as of any subsequent affirmations, modifications or reversals by the Secretary. In addition, when a provider seeks judicial review, the amount in controversy shall be subject to annual interest beginning 6 months after the intermediary has made a final determination, or within 6 months after final determination would have been made had it been done on a timely basis.

III. COSTS OF CARRYING OUT THE BILL AND EFFECT ON THE REVENUES OF THE BILL

In compliance with section 252 (a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs to be incurred in carrying out this bill and the effect on the revenues of the bill. The committee estimates that the suspension of duties on certain horses provided by the bill will result in revenue loss not exceeding \$200,000. The committee estimates that the provision for judicial review of decisions by the Provider Reimbursement Review Board will result in only nominal costs, if any.

IV. VOTE OF COMMITTEE ON REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act, as amended, the following statement is made relative to the vote of the committee on reporting the bill. This bill was ordered favorably reported by the committee without a roll call vote and without objection.

V. CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill, as reported).

