



**TESTIMONY OF PET INDUSTRY JOINT ADVISORY COUNCIL
BEFORE THE HOUSE COMMITTEE ON
LICENSING AND ADMINISTRATIVE PROCEDURES
HOUSE BILL 3180**

April 1, 2009

Position: Qualified Opposition

As the world's largest pet trade association, the Pet Industry Joint Advisory Council (PIJAC) appreciates the opportunity to offer this esteemed committee our views on House Bill 3180. Representing the interests of all segments of the pet industry throughout the United States, PIJAC counts among its thousands of members various associations, organizations, corporations and individuals involved in the commercial pet trade. More specifically, we represent pet breeders, pet product manufacturers, distributors and retailers throughout Texas who would be significantly impacted by the legislation before you today.

Let me emphasize that nobody cares more about healthy pets than does PIJAC. We have, for many years, provided a highly respected animal care certification program intended to ensure that employees are well trained in the care of the animals they sell; a program that is widely utilized not only by persons in the commercial pet trade but also shelters and humane societies throughout the country, and one that has even been adopted as a statutory standard. PIJAC has worked closely with the USDA on effective implementation of the Animal Welfare Act for pets since its inception over three decades ago, and has joined hands with state and local agencies to ensure adoption and enforcement of appropriate regulatory standards. Our association has long been recognized as the voice for a responsible pet trade, and routinely advocates for new statutory standards that are in the best interests of companion animals and the pet-owning public. We also continually seek to advance the voluntary implementation of superior standards in the care, handling and transport of companion animals.

Likewise, PIJAC is strongly supportive of pet warranty statutes. In fact, we have participated in the process of crafting every single pet warranty statute in effect in the United States today. Because we firmly believe that pet dealers should stand behind the animals they sell, PIJAC supports codifying a reasonable warranty in law.

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House Bill 3180 essentially seeks to accomplish two broad goals: licensing of commercial pet dealers and establishment of a retail pet warranty. As a general proposition, the pet industry supports these goals. However, there are several provisions within this legislation that are ambiguous, inappropriate or even compromise the effectiveness of the law.

As the committee is aware, commercial breeders of dogs and cats are already subject to licensing and inspection pursuant to the federal Animal Welfare Act. Regulations promulgated under that act provide extensive standards for the breeding, housing, transport and general care of pet animals. We believe that care should be taken when considering establishment of a dual licensing system for pet dealers. Only a minority of states has taken this route at all and, when doing so, such states endeavor to fashion a system that will not create conflicting standards between the federal and state licensing schemes. We suggest that the committee should consider whether there is a sufficient basis for directing scarce resources to the state regulation of breeders that are already licensed under federal law.

Should the committee determine that the dual licensure mechanism created by HB 3180 is desirable, PIJAC respectfully submits that there are problematic provisions within this bill. For example, proposed Section 802.059 covering Inspections and Investigations would grant inspection and enforcement authority to humane societies and their agents. Delegation of enforcement authority to multiple entities increases the likelihood of inconsistent, or even arbitrary and capricious, enforcement of the act across the state. But, in any case, there should not be delegation of such authority to nongovernmental entities. They are not answerable to voters nor subject to governmental oversight. Police powers of this nature should be reserved exclusively to appropriately trained governmental entities. A grant of police powers to nongovernmental entities only invites abuse.

A limit under proposed Section 802.205 against possession of “more than 50 intact adult animals at any time” does not belong in any licensing law. It is important to note that there is no correlation between the number of animals in a facility and the quality of care those animals receive! Some of the largest commercial breeding operators in this country employ state-of-the-art facilities, exceptional and frequent veterinary care, and the highest standards for breeding and raising their animals (typically exceeding what is required by law). But further, **a prohibition such as this limits the ability of dog breeders to maintain sufficiently diverse blood lines – This will result in an increase in adverse hereditary conditions, to the detriment of the dogs, pet owners and the business itself. Indeed, there is NO ONE that benefits from this provision!** We urge the committee to inquire of any qualified expert as to the likelihood of increased recessive traits when breeding with limited blood lines!

Any licensure statute should focus on establishing, and providing appropriate enforcement authority for, standards that will ensure dogs and cats are receiving quality care, nutritional sustenance, appropriate veterinary care, adequate exercise opportunities and sound, safe transport. Pet animals can and are provided humane care in abundance at countless breeding facilities of all sizes. By the same token, there are some breeders who do not comply with appropriate standards; but that has absolutely nothing to do with the number of animals in the facility.

The bill would establish an advisory committee charged with advising the Department on adoption of rules and administration of the Act. We appreciate the benefit such a committee could bring to the process, but only if it is prudently constituted. The legislation includes an animal welfare advocate and consumer advocate, but excludes the very people most knowledgeable about the bill’s subject matter.

Indeed, it explicitly prohibits service by persons from pet stores and commercial breeders. These are the very individuals who are familiar with how facilities are and should be properly run. Indeed, PIJAC, which has been involved in legislation of this type throughout the United States for nearly 40 years is unaware of any such advisory board anywhere that doesn't include industry representation.

We are perplexed also by a prohibition against the selling of dogs or cats less than 12 weeks of age. Such a prohibition not only fails to benefit the animals in any way, **it actually compromises their welfare.** Studies demonstrate that the ideal developmental period for dogs and cats to be effectively socialized into a new home is at 8 to 12 weeks. Preventing the sale of animals until 12 weeks will impair the human-animal bond and the health and welfare of pet dogs and cats. The standard that should be utilized is that set forth in regulations of the federal Animal Welfare Act which prohibits delivering dogs and cats that are under 8 weeks of age. The reason for this 8 week standard is that this is the established, uncontested age at which these animals are fully weaned from their mothers.

As noted, PIJAC is supportive of fair warranty statutes. We do believe there are some deficiencies in the current proposal that the committee should correct before considering passage of this measure.

We would first emphasize that a legitimate pet store will never knowingly sell a sick puppy. But dogs, like all living beings, will sometimes become ill. That occurs in a small minority of pet store puppies. Where it does occur, a statutory warranty is intended to provide fair compensation to the purchaser. We would point out to the committee that this bill provides not only for a full refund, but also reimbursement of veterinary expenses.

There is no other warranty mandated by law in Texas (or elsewhere in the United States for that matter), for any product or service, that requires strict liability (where the seller was not at fault) compensation to customers in multiples of what they paid for the product or service. Indeed, warranties for other products and services routinely preclude consequential damages. Pets are, of course, unlike other products and services. They are living beings, and are not simply interchangeable. It is precisely because they are living beings that the same quality control applied to assembly-line products cannot be employed in the rearing of pets. What do not change, though, are the basic economic realities of retailing to the public. A retailer cannot be liable for damages for which he or she is not responsible that are equal to several times the cost of the puppy or kitten they sell. Such a legal mandate would just lead to businesses shuttering their doors for good.

Pet warranty laws in other states typically cap recovery of veterinary fees to an amount that equals the original cost of the animal. This, of course, means an effective reimbursement of 200% the amount originally paid for the dog by the pet owner. PIJAC supports this standard. We would caution, however, against creating higher caps as they create an economically untenable environment for pet dealers who would simply be driven out of business; not because they do a poor job but because the market simply won't support that type of legal liability.

We would also point out that shelters and humane societies are exempt from the warranty requirement of this bill. Pet buyers, however, who routinely pay "adoption" fees to these entities for their pet dogs, are left in precisely the same position if they get a sick dog from a shelter as from a pet store. These entities, which not only sell (or "adopt out for a fee") dogs to the public but also frequently sell pet products as well, are at a competitive advantage over pet dealers. **We would suggest that consumers should benefit**

from the same statutory warranty for dogs they buy from shelters and humane societies as they do for pet store dogs.

The committee should be aware, as well, of another provision of this bill that is inconsistent with the pet warranties of other states. Proposed Section 802.305 provides that customers may be eligible for a reimbursement under the warranty if a veterinarian certifies a pre-existing condition within 20 days of the acquisition of the animal. **This time period proviso actually compromises the warranty.** The incubation period for any illness that the warranty reimburses is no greater than 14 days. There is no possible way that a veterinarian can legitimately certify the illness existed at the time of acquisition if he or she doesn't see the animal within 14 days. That is why the prevailing standard time periods for pet warranties are between 12 and 14 days. **A 20-day warranty period would give consumers the false comfort of believing there was additional time for a veterinarian visit when in fact the veterinarian would then be unable to provide the certification necessary for reimbursement.**

PIJAC believes that, in an economic climate such as the current one, where margins for retailers are already painfully small in the best of cases and where many pet dealers have gone out of business and continue to do so, adopting legislation that will impose unsustainable financial burdens on these businesses is imprudent. It will cost tax revenue to the state and jobs to current employees, while providing precious little benefit to the public at large.

These are some of the problematic provisions of HB 3180, but there are several others. PIJAC respectfully urges the committee not to recommend the bill in its current posture. We would be pleased to assist this committee in any way we can to remedy weaknesses in this legislation, but respectfully suggest that a study committee may be the most desirable course to assure a sound bill.

Notwithstanding the hysteria and hyperbole disseminated by some, professionalism in the pet trade has steadily and consistently increased over the past several years, and the quality of care provided pet animals has improved and continues to do so. Most in the commercial pet trade do a good job. PIJAC is proud of its part in making this happen. At the same time, there is always room for continued improvement, and we recognize there are still those who fail to meet acceptable standards. PIJAC routinely works with legislators and regulators to close this gap, and we would be pleased to offer such support here.

PIJAC has worked for many years to ensure that commercial breeders of dogs and cats meet acceptable standards or go out of business. There is no room in this industry for substandard operations. In fact, most in the commercial dog and cat trade do a good job, but we know there is always room for improvement. We will continue to enthusiastically work with this committee to improve on the status quo. **We do not believe, however, that HB 3180 as currently crafted has that effect.**

Thank you greatly for your consideration of our concerns!