



PUPS BILL REINTRODUCED IN UNITED STATES CONGRESS

ANIMAL WELFARE ACT TO BE AMENDED

The Issue.

Senator Richard J. Durbin (D-IL) and Representative Samuel S. Farr (D-CA) introduced companion bills in the Senate and House of Representatives, respectively, titled the Puppy Uniform Protection and Safety Act (PUPS). This legislation amending the Animal Welfare Act (AWA), which was introduced in similar form in the 110th Congress, would modify the current retail exemption relative to “high volume breeders” and incorporate new requirements for the exercise of dogs, including facility standards for exercise areas. In introducing the bill, Senator Durbin specifically pointed to the recently released USDA Inspector General’s report addressing AWA enforcement by the federal agency, saying the bill “will close the loophole that allows large breeders to sell puppies online, escaping inspection and oversight.” Although there are no reliable figures as to the extent of puppy sales online in the United States, such sales have been raised as a concern in recent years.

The Impact.

When the AWA was first amended to regulate pet dealers, an exemption for pet retailers was included in the law. This exemption has stood for 40 years, notwithstanding other amendments to the Act. Subject to limited exceptions, persons who breed and sell warm-blooded animals as pets at wholesale are required to be licensed with the Animal and Plant Health Inspection Service (APHIS), while those selling such animals to the public (as retailers) are not. If PUPS is adopted into law, this longstanding retail exemption would for the first time be modified in the federal statute to bring a certain group of retailers under the AWA. Specifically, anyone qualifying as a “high volume retail breeder” would be required to become licensed and be subject to applicable provisions of the AWA.

Under PUPS, a high volume retail breeder is defined as any person “who, in commerce, for compensation or profit,

(i) has an ownership interest in or custody of 1 or more breeding female dogs; and

(ii) sells or offers for sale, via any means of conveyance (including the Internet, telephone, or newspaper), more than 50 of the offspring of such breeding female dogs for use as pets in any 1-year period.”

A “breeding female dog” for purposes of the Act is defined as “an intact female dog aged 4 months or older.” The bill provides that anyone qualifying as a high volume retail breeder is a dealer under the AWA and explicitly states that the retail pet store exemption under the Act does not apply to these people.

The high volume retail breeder provision is being painted as a way of closing the “loophole” that allows breeders to sell directly to the public via the Internet. When the retail exemption was first established, of

course, there were no internet sales. That exemption was placed into the Act because the focus was on regulation of breeders who are not subject to public exposure. Those who buy pets, as well as members of the public generally, routinely frequent retail stores and readily observe the conditions under which these animals are kept. Furthermore, pet stores are often regulated under state law. Those who sell exclusively through the internet, though, do not have facilities that are frequented by the public and state laws regulating pet stores do not necessarily apply to them. **It is important to note, though, that this bill is not targeting internet sellers per se – the high volume retail breeder definition covers breeders regardless of how they sell animals.**

This bill also amends requirements for exercise of dogs by anyone licensed under the Act. Dealers would be required to report on their original license or renewal application the number of dogs exempted from exercise pursuant to a veterinarian's determination and USDA would have to adopt new exercise standards that include the requirement for all dogs at least 12 weeks of age (except female dogs with unweaned puppies) to have daily exercise that allows the dog:

- (i) to move sufficiently to develop or maintain normal muscle tone and mass as appropriate for the age, breed, sex, and reproductive status of the dog; and
- (ii) the ability to achieve a running stride; and
- (iii) is not a forced activity (other than a forced activity used for veterinary treatment) or other physical activity that is repetitive, restrictive of other activities, solitary, and goal-oriented.

The exercise area must:

- (i) be separate from the primary enclosure if the primary enclosure does not provide sufficient space to achieve a running stride;
- (ii) have flooring that is sufficient to allow for the type of activity described above and is either solid flooring or, if nonsolid, then it must be nonwire flooring that is safe for the breed, size, and age of the dog, is free from protruding sharp edges; and is designed so that the paw of the dog is unable to extend through or become caught in the flooring;
- (iii) be cleaned at least once each day;
- (iv) be free of infestation by pests or vermin; and
- (v) must be designed in a manner to prevent escape of the dogs.

These exercise requirements would not be applicable to any particular dog if a licensed veterinarian has determined that such exercise is inappropriate due to the health, condition or wellbeing of the dog. Unless the condition is permanent, it would have to be reviewed by the veterinarian at least once every 30 days.

PIJAC Position.

PIJAC has for many years condemned substandard facilities and has worked with USDA to ensure effective enforcement of the AWA. In fact, PIJAC has supported legislation to strengthen the authority of USDA to enforce the Act against unlicensed breeders who are required to be licensed under the Act. However, the AWA was never intended to apply to non-commercial breeders and PIJAC has not supported expansion of the Act to apply to such breeders. Nor was the Act ever intended to apply to traditional retail pet stores and PIJAC would oppose expansion of the AWA to apply to such stores.

Recommended Action.

[S. 3424](#) was assigned to the Senate Committee on Agriculture, Nutrition and Forestry. [Click here](#) to contact committee members. [H.R. 5434](#) was assigned to the Committee on Agriculture in the House of Representatives and a list of that committee membership may be obtained by [clicking here](#). Individuals may also easily contact their Congressional representatives directly through PIJAC's Legislative Action Center on the Government Affairs page of the PIJAC website (<http://www.pijac.org/governmentaffairs>).

Neither of these bills has yet been set for hearing. PIJAC will be posting revised *PetAlerts* on the Breaking News page of its website (<http://www.pijac.org/petinformation/breakingnews.asp>) to advise members of any change in status and to recommend appropriate action. You are encouraged to check the PIJAC website regularly for additional information. Those having questions about this legislation should contact PIJAC's Michael Maddox via email at michael@pijac.org by phone at 202-452-1525.