



PUPS BILL INTRODUCED YET AGAIN IN U.S. HOUSE

**** Animal Welfare Act To Be Amended ****

The Issue.

Legislation that has appeared in similar form over the last two terms of Congress was introduced yet again in the House of Representatives, this time with Representative [Jim Gerlach \(R-PA\)](#) as the lead sponsor. The Puppy Uniform Protection and Safety Act (PUPS) - [H.R. 835](#) - would amend the Animal Welfare Act (AWA) to limit the existing exemption for retailers and add substantive requirements to existing care standards under the law. As with past sponsors of this legislation, Rep. Gerlach touted the need to close the “Internet loophole” because, he claims, “large breeders have evaded federal animal welfare laws by selling dogs on the Internet.”

The Impact.

The “retail pet store” exemption under the AWA was inserted when that statute was first amended to regulate pet dealers 40 years ago, and it has withstood both court challenges and legislative efforts to curtail the exemption. 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 directly to the public (as retailers) are not. Amendments to the law proposed in the PUPS bill seek to limit the exemption as it pertains to “high volume” breeders. Although proponents argue that the amendment is needed to regulate the sale of puppies over the Internet, this bill would apply to breeders meeting the “high volume retail breeder” definition no matter how they sell those dogs.

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.

In essence, this legislation is eliminating the retail pet store exemption for anyone who breeds dogs and sells more than 50 of the offspring. None of the bill’s provisions specifically address the “Internet loophole” per se. Persons who qualify as “high volume retail breeders” will be required to become licensed with USDA, irrespective of whether they sell even a single dog on the Internet, while those who don’t meet the threshold will not be required to obtain a license even if they sell all their dogs via the Internet. Proponents of the legislation argue that it is necessary because means of selling dogs today did not even exist when the AWA was first enacted, and the rationale for the retail pet store exemption does not apply to Internet sales at all. 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 the animals are kept. Furthermore, pet stores are often regulated under state law. Since persons selling exclusively through the internet don’t have facilities

frequented by the public and state laws regulating pet stores do not necessarily apply to them, these individuals escape oversight altogether.

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.

When introduced in the last Congress, this legislation had companion bills in both houses of Congress. At this time, no Senate version of the bill has yet been introduced.

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.

[H.R. 835](#) was assigned to the House 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.

This bill has not yet been scheduled for a hearing. PIJAC will be posting revised *PetAlerts* on the [Breaking News page](#) of its website to advise members of any change in status and to recommend appropriate action. PIJAC will also issue a new *PetAlert* if and when a companion to this bill is introduced in the Senate. You are encouraged to check the PIJAC website regularly for additional information. Those having questions or concerns about this legislation should contact PIJAC's Michael Maddox via email at michael@pijac.org by phone at 202-452-1525.