

Concerns about Rep. Grossman's proposed bill to regulate commercial breeding facilities:

Introduction

We have concerns that this bill will in the end mean little or no change for most of the dogs held by for profit breeders. The bill leaves the bulk of regulation to the county which already has the authority to regulate these facilities and has failed to do so; the counties with the most commercial dog breeders have, if anything, facilitated puppy mills. The counties with large numbers of commercial dog breeders likely include among their commissioners either operators of these facilities or those that profit from this industry.

Also, the bill relies on outmoded AWA standards of care that are designed simply to keep dogs alive and breeding for profit. The AVMA, in fact, has far more updated and comprehensive standards of care for commercial dog breeders that have been omitted from this proposed bill. The bill omits those that would actually offer some improvement to the lives of the dogs. As is, the bill will do little other than to keep dogs alive for breeding purposes.

Here are specific concerns:

1. Definition of commercial breeding facility – the phrase “in the business of” is vague and undefined. Many for profit breeders do not consider themselves “in the business of breeding dogs for...sale”. Many will say they really breed dogs for hunting, sport or show or just as a hobby. This is a huge loophole that will leave many for profit breeders unregulated, which we guess was the point here, and also leave inspectors and prosecutors guessing as to whether or not a particular breeder should be regulated. We also don't know what is meant by “or otherwise”.

We would suggest this definition –

"Commercial breeding facility" means a person or entity that for monetary or other consideration maintains at any one time six or more dogs for breeding; and either

- (a) sells, leases, trades, barter, or transfers to another person or entity the offspring of a dog;

- (b) buys, sells, leases, trades, barter, or transfers to another person or entity a dog for resale to another; or
- (c) sells one or more dogs annually to a retailer.

2. Definitions of Tier 1 and Tier 2 facilities – This proposed bill will leave hundreds of commercial breeders unregulated. Also, it is simply not workable to try to identify Tiers based on the number of dogs sold. In New York the definition of a breeder is based on the number of dogs sold. The inspectors there will tell you that the system fails because it is simply not possible to prove how many dogs a breeder has sold. The inspectors there have said they actually spend time combing thru local newspapers to try to get a handle on how many dogs a breeder is selling to determine if the breeder is subject to regulation. *How will the state or county track the number of puppies sold?* They won't. It is a completely unworkable definition.

Also, most of the regulation will be left to county commissioners. The notorious puppy mill counties will love this – if they bother to appoint an inspector, it will be someone that will enable the breeders to continue in business as they are. **It does not appear there is any mechanism to enforce this law against the county. The prosecuting attorney or attorney general can only act on reports received from inspectors.** There is no provision to allow humane agents, dog wardens, public health officials or other law enforcement to take action to enforce the law. It is not clear whether the animal cruelty laws could be enforced against breeders.

Take the commercial dog breeder, David Hershberger, who keeps more than 560 breeding dogs at a time. How many puppies or dogs does he sell each year? Is he Tier 1 or Tier 2? This breeder is under investigation for alleged repeated violation of USDA regulations; yet the county has continued to issue him a kennel license with no conditions. Why would anyone think the same county will now act against such a breeder?

In summary, there is no regulation at all for breeders that sell less than 25 dogs each year. Breeders that sell between 25-100 dogs are subject to regulation only by

the county commissioners and the inspector they appoint. The hands of every other law enforcement official appear to be tied when it comes to enforcing laws against these breeders. These breeders will be “regulated” by county commissioners who thus far have been happy to let them do as they please and are in some instances part of the commercial dog breeding industry. There is nothing in this proposed bill to make sure the county and its inspectors actually enforce this law.

This assumes that anyone can even determine how many dogs per year a breeder sells.

3. It’s a mistake not to limit the breeding especially with such limited inspections and weak standards of care. As you can see from the inspection reports posted on www.holmescountyexposed, many USDA licensed breeders in Ohio with more than 50 dogs also had repeated citations for violations of USDA regulations. Numbers drive quality of care.

4. Contrary to the email we received from your office that praised the AWA standards, the AWA standards are outmoded and leave dogs in cramped cages. The purpose of these AWA regulations was only to keep dogs alive and in good enough condition for breeding purposes, nothing more. Most are vague and unenforceable as you can see from the numerous inspection reports buried in USDA files. Even the AVMA has more updated standards particularly for socialization and exercise. To rely on AWA standards will put Ohio at the back of states and even federal efforts to modernize standards that encourage good health and psychological well being over profits.

Exercise and socialization

Note the standards of care advanced by AVMA which focus on socialization http://www.avma.org/advocacy/state/issues/Care_for_Dogs_Model_Act_and_Regulations.pdf . **Go to IV**. You will see that the AVMA recommends socialization and also exercise that allows dogs to reach a “running stride”. This proposed bill contains nothing that assures the socialization or exercise needs of dogs will be met.

Take as another example the recent law enacted in Missouri that requires commercial dog breeders with more than 10 breeding dogs to allow them "constant and unfettered access" to an "attached outdoor run". MO 2011 S.B.113.

In Pennsylvania a 2008 law requires Class C or commercial kennel operators to provide an "exercise area...[that... allow[s] for unfettered clearance for dogs from their primary enclosure." 3 P.S. §459.207(i)(6)(i)

A recent Washington state law requires breeders to "[p]rovide each dog that is over the age of four months with a minimum of one exercise period during each day for a total of not less than one hour of exercise during such day. Such exercise must include either leash walking or giving the dog access to an enclosure at least four times the size of the minimum allowable enclosure". The minimum allowable enclosure must (1) allow "each dog to turn about freely, to stand, sit, and lie down. The dog must be able to lie down while fully extended without the dog's head, tail, legs, face, or feet touching any side of an enclosure and without touching any other dog in the enclosure when all dogs are lying down simultaneously. The interior height of the enclosure must be at least six inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position." Then (2) on top of the requirements in (1), "[e]ach enclosure must be at least three times the length and width of the longest dog in the enclosure, from tip of nose to base of tail and shoulder blade to shoulder blade." Then it is this minimum space as described in (1) and (2) that must be quadrupled to provide an exercise area. Rev. Code Wash. (ARCW) § 16.52.310

Under the AWA which this proposed Ohio bill would follow, however, the weak exercise requirement is satisfied by putting a dog in group housing even in a cage as long as it provides at least 100 percent of the required space for each dog. That means the exercise requirement may be met by housing a dog that is, for example, 40 inch long in a cage with other dogs if there is 14.69 feet per dog. Barely enough room to turn around.

Living space

The PA law also requires Class C kennels to provide twice the living floor space per dog that this proposed Ohio bill and the AWA standards would require.

The new Missouri law requires for currently existing enclosures, by Jan. 1, 2012, the space must be two times that "allowable" under current MO regulations which basically follow the AWA regulations. For enclosures constructed from now on and by Jan. 1, 2016, there must be 3 times the currently provided "allowable" space.

Without increasing space and exercise requirements beyond the meager AWA requirements, as Missouri, Pennsylvania and other states have done, Ohio's proposed bill will simply perpetuate the status quo for dogs trapped in puppy mills.

5. Auctions, sale in public places – The proposed bill has removed all restrictions on dog auctions and sale of dogs in public places. Compare a Pennsylvania law provides: "*It shall be unlawful for any person to buy, sell, offer to sell, transfer, barter, trade, raffle, auction or rent a dog at any public place in this commonwealth*". 3 P.S. § 459-603

Dog auctions in Ohio serve as a major distribution channel for buyers and sellers from 15 states, many of which have repeated, long standing violations of the Animal Welfare Act or have been convicted of animal cruelty. Dog auctions are held primarily for backyard breeders and other puppy mill owners, thereby providing a financially efficient way to sell dogs, who are no longer producing as many puppies as when they were first bred or who have developed medical or behavioral problems. In this way, dog auctions enable puppy mills to continue to profit from poor and cruel breeding practices. Prior to and after auctions, dogs and pups are driven for long distances, sometimes for more than 10 hours, when they are taken for sale in such places as Holmes County, OH. Dogs and pups being transported to and from auctions are not only exposed to extreme weather conditions but are also deprived of food and water for very long periods, including the many hours during the auctions.

In failing to ban the auctions, this bill will only enable puppy mills, the spread of disease like brucellosis and these miserable conditions endured by the dogs.

There has also been a trend to target another sales outlet for puppy millers and other criminal and irresponsible breeders and distributors: the sale of animals along roadsides, parks or at flea markets or swap meets. The animals sold like this are usually from breeders who provide little or no care, backyard breeders, and the animals may turn out to be unhealthy, have serious, contagious diseases or congenital abnormalities, may not have proper vaccinations, and may not even be the breed represented by the seller. There is no way to track the breeder or distributor involved in these sales and no way for consumers to have any recourse. These sales are targeted to capitalize on impulse buys, making it more likely the animal will be dumped later.

A number of other jurisdictions are banning sale of dogs in public places including a number of large metropolitan areas in Arizona, Texas and Tennessee. It is a common sense way if nothing else to protect consumers from unscrupulous breeders and distributors.

The bill must effectively stop the cruelty. This proposed bill will for the most part simply perpetuate this seedy industry and the suffering of the dogs used and abused for profit.