

111Federal Puppy Uniform Protection and Safety Act (PUPS) HR 5434 and S3424

Who is Included and The Effects

PUPS would create a new category of breeder, "High Volume Retail Breeder." High Volume Retail Breeders would be required to be licensed by USDA under the Animal Welfare Act/AWA. They would be defined based on their ownership of or of having of ownership interests in one or more "breeding female dogs," and sales, or offer to sell, by any means, of more than 50 of the offspring of those "breeding female dogs" in any 1-year period.

In the past, legislation has excluded home/hobby breeders since they are exempt under the AWA from federal licensing. However, in this bill, home/hobby breeders would be required to follow USDA rules and regulations, should they meet the High Volume Retail Breeder definition. This bill would, for the first time, require home/hobby breeders to follow the strict USDA requirements, such as engineering standards designed for large commercial kennels and not homes. Such regulations would exceedingly difficult to meet in a home/residential breeding environment.

This bill would affect all breeders who sell directly to the public, including show/hobby/working dog breeders.

If passed, PUPS would disastrously reduce purposely-bred pups for the public.

Known Violators

There is nothing in this bill that changes the status of already known substandard kennel violators. There is no increase in funding for additional inspectors, nor is increased inspection evaluation education included.

Twelve Commercial Breeder Associations in ten different states have now publicly condemned substandard kennels. APRI/America's Pet Registry, Incorporated, one of the large pet registries, has joined in this public condemnation of substandard kennels. Each association has issued a policy statement that reads, "**(Name of Group) condemns all substandard kennels which reflect poorly on the vast majority of responsible breeders who have demonstrated by their actions that truly care about the health and welfare of their animals.**"

Inspections

The May 2010 Office of the Inspector General/OIG Report showed major problems with the lack of proper inspections and enforcement by APHIS inspectors, yet nothing in this bill addresses this deficiency or provides the means to correct it.

If passed, the PUPS bill would increase the need for many more Animal Plant and Health Inspection Service/APHIS inspectors; however, no increase of inspectors is reflected in the text of the bill.

Considering the nation's deteriorated economy and huge budget deficits, new sources of funding would be needed to fund this currently unfunded bill's mandate. Expanded enforcement and inspections could not be undertaken, and those facilities that require extra inspections would slip out of sight.

Numerical Counts

Many breeders sell their pups on a contract that requires the buyer to return the pup or dog if they no longer want or can no longer keep it. In contract law that is called a “remainder” whereby the original owner retains an ownership interest in the dog.

Co-ownership of dogs allows smaller kennels to further develop excellent bloodlines without increasing kennel size at their residence. PUPS includes all co-owned females and their offspring as counting towards the numeric thresholds for licensing mandated by the bill. This bill would limit co-ownership and result in decreasing health proven bloodlines.

PUPS requires all intact bitches 4 months old or older to be included in the numeric count of “breeding female dogs” required for licensing in the bill, yet all breeders, veterinarians and the various breed registries would agree that a 4-month-old puppy is too young to be bred. No puppy is physically mature at 4 months of age.

Often young dogs are held back in breeders’ kennels for evaluation of future breeding potential. These dogs are not for sale nor offered for sale, yet would be included in the kennels’ numbers.

Various medical reasons may cause a veterinarian to recommend that a dog be left intact but not bred. Those medical concerns would not prevent the dog from possibly be shown, trialed, or worked, yet still not be offered for sale. That dog would be included in the count.

Many health and genetic tests cannot be done until a dog has reached two years of age. Conscientious breeders often choose to wait until their dogs have had all health screenings recommended for that breed, forcing them to forego breeding any dog until it is at least two years old. However, under PUPS, any intact female over the age of four months would also be included as a “breeding female dog,” even if the breeder had no intention of breeding any owned dog prior to the completion of testing done after the dog was two years old.

Dogs purposely bred for showing, trialing or other events often are not bred for several years due to many different reasons. Some of these dogs may never be bred, yet are included in the count.

Breeders frequently give, without compensation, a pup or a retired dog to a loving home. These dogs are counted as “transfers” by inspectors and could be included in the tally of dogs sold, transferred or given away.

When breeders agree to exchange dogs with the intent of enhancing each other’s bloodlines, that exchange of animals could incorrectly be misconstrued as a sale.

There are occasions when a breeder’s kennel must be reduced or closed due to the owner’s disability or death. Other breeders often step in and temporarily bring those dogs to their own kennel, creating a much larger number of dogs than normal.

Working kennels maintain a large dog population while they are evaluating dogs for their “jobs.” If the dogs do not work out for the purpose for which they were intended, they are often sold as pets. This could bring those working/training kennels under USDA regulations.

Field trainers or show handlers maintain kennels that include their clients' dogs in addition to their own breeding and show/field dogs. Those show/field client dogs are at those kennels on an extended yet temporary basis, however, those client dogs would also be included in the count.

Animals NOT included in the numerical count or covered by the bill

PUPS does not include intact bitches imported to the United States for purposes of breeding or exhibiting.

Foreign-bred pups/dogs sold to US buyers are not covered by PUPS. PUPS does not cover pups/dogs from kennel owners with both domestic and non-domestic facilities reared outside the US and sold to US buyers.

Ambiguous/Vague/Fallacious Language

The terminology and language of the PUPS bill is vague and thus subject to litigation for the courts to ultimately decide. The legal proceedings that would ensue would be expensive for all parties.

"High-volume retail breeder" is defined as:

A 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.

"Breeding female dog" is defined as follows:

BREEDING FEMALE DOG- the term "breeding female dog" means an intact female dog aged 4 months or older.

Factually, a 4-month-old female dog is not physiologically mature enough to be bred. Factually, there is no way that one bitch can produce 50 pups in one year. However, PUPS' definition of a breeder designates female dogs 4 months or older as being an intact bitch. Intact yes, breedable, no.

The animals included under "50 offspring" are not defined by age, as being from litters owned by the breeder, or even as being personally owned by the breeder. This vague term will include everything from puppies, young adults, spayed dogs, older dogs retired from a breeding program, previously placed dogs returned and rehomed, et cetera.

There are no assurances that numerical limits will not be downwardly reduced in future.

USDA requirements impossible to meet in home or hobby breeding

The living situation of the home or hobby breeder is vastly different from that of commercial breeders. For example, it would be impossible to keep the floors (rugs, wood flooring, upholstery, etc.) impervious to moisture in those residential environments as required by the AWA.

Often different species of pets are kept in the home of the home/hobby breeder. This is excellent exposure and training for dogs that may end up in similar mixed species homes. Dogs and birds

and cats learn to get along. This would not be possible should AWA regulations ban the housing of “incompatible” species.

Homebred dogs are often crated during some part of the day, or as part of puppy training or housebreaking. Most of the day, the dogs are loose in the home or on the property. AWA regulations have specific and unbending rules regarding the sizes of primary enclosures that would be onerous and unnecessary in a residential environment.

Internet sales

As complaints from Internet pup buyers are extremely rare, there is no need for onerous regulation of home breeders. Additional research is needed to verify complaint claims as being justified and not merely frivolous, and also to determine whether the basis for complaints are valid to best address any “Internet breeder” issues.

The May 2010 OIG APHIS Report used four instances of complaints as examples. Two were from newspaper comment sections; one was to a local Better Business Bureau, and one to the OIG animal abuse hotline. None of these complaints were verified by the OIG or any other governmental authority.

Many breeders use their personal websites to proudly display their kennels, their dogs and their accomplishments. This could be misconstrued as advertising even though the owner has no dogs for sale or litters planned. A breeder who has a singleton litter may proudly show that pup and its parents on a website without ever having any intention of selling the pup.

Telephone discussions with possible prospective dog buyers regarding planned litters would be counted towards the sale of “50 offspring” required for licensing, although there might be no consummation of any sale.

Rescues

There is no exclusion for rescues, animal control facilities or sanctuaries in this bill.

Rescuers often take bitches in whelp into their facility, as well as bitches with unweaned pups. These pups, when sold, could easily raise the numerical count to over 50 for a calendar year. When they place these pups on the Internet to find permanent homes, they are offering to sell, and can easily surpass the 50/year limit.

While rescuers and/or animal control personnel might refer to placing dogs as “adoptions,” they are legally releasing them for compensation or profit. This brings them under the bill. This is occurring in several states at this time.

Rescues are often in residential situations, so USDA requirements would also apply to them and be difficult to comply with.

When large breeding kennels are closed down, the breeding animals with whelps are brought in to animal control or rescue facilities. Even if placed in foster homes, the named owner is the rescuer or the government animal facility.

Commercial facilities:

The May 2010 OIG Report does not refer to exercise deficiencies by the inspected kennels, yet the PUPS bill discusses this in great detail. However, many of the terms in the bill are vague and as they stand, open to the inspectors' judgment or discretion. For instance, "running stride" and "normal muscle tone and mass" are open to interpretation by each individual, and can also vary by breed.

Misunderstanding the expression "goal-oriented" exercise can lead to confusion by breeders and inspectors.

It would be of more benefit to further inquire and rely upon scientific studies and research relating to the physical benefits of exercise, whether structured, repetitive or free unstructured before requiring any certain regimen.

Different conditions could necessitate exercise routines that would be forbidden by this bill. Dogs in climates that are not conducive to outdoor activities, either too hot or too cold, could exercise on treadmills to build endurance for their work. Older dogs or dogs recovering from injuries could benefit utilizing current-resistant swimming pools.

Natural surface, normal outdoor surfaces, appear to be could be construed as being prohibited by the requirement that exercise surfaces be cleaned daily and be free of pests and vermin.