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Stop PAWS in its tracks

DFOW expresses our appreciation to Jeffrey P. Helsdon for writing the following legal analysis for the Doberman Pinscher Club of America.

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In order to view the document in it's entirety, please visit:

<http://www.dfow.org/hcontents.htm>

The American Kennel Club and the Pet Animal Welfare Statute of 2005: Whence Comes the Reversal of Course?

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An analysis of the proposed legislation in its historical context and the position of the American Kennel Club with respect thereto.

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On May 26, 2005, Sen. Rick Santorum introduced S.1139, the Pet Animal Welfare Statute of 2005 (hereinafter PAWS). The bill seeks to amend certain provisions of the Animal Welfare Act (hereinafter AWA), codified in 7 United States Code § 2131 et. seq.

In its essence, PAWS amends the AWA to include within federal regulation - for the first time - hobby breeders who breed and sell dogs and cats at retail from their own homes.

Without any consultation with traditional allies like the Cat Fanciers Association (CFA), the Pet Industry Joint Advisory Committee (PIJAC), the National Animal Interest Alliance (NAIA), or the Animal Council, the Board of Directors of the American Kennel Club (AKC) unilaterally endorsed PAWS. The AKC's position shift can be described politely as monumental. It was taken without any input from what it had described in official communication with the Department of Agriculture as its "principal constituency. . .the purebred dog fancy."¹

Alarmed by this sea-change, the AKC's "principal constituency" has called upon the AKC² to explain how it can reconcile support for PAWS with its previous position:

The AKC believes the solution to the problem of random, large scale breeding for commercial purposes is scrupulous enforcement of the federal Animal Welfare Act, and state and local regulations governing the humane care of animals. We further recommend and support programs that teach the public to purchase puppies from responsible breeders and to avoid impulse buying of dogs.³

In an article written for Dog News, Dr. James Holt, lobbyist for the American Kennel Club, responded to these critical comments. In a Question and Answer format, Dr. Holt argued that PAWS actually benefits the dog fancy and by implication, advances the AKC's stated mission to:

Take whatever actions necessary to protect and assure the continuation of the sport of purebred dogs.⁴ [sic]

Dr. Holt's arguments are roughly stated as follows:

Hobby breeders have no current protection from federal regulation because we are not exempted in the statute, but rather because the USDA has "chosen" to exempt us.

The internet and "mass media channels" have resulted in people selling "large numbers" of dogs at retail, thus "evading" the Animal Welfare Act. Therefore, "the law must change. . ."

The AKC "would have preferred" a definition of hobby breeder exempted from the Animal Welfare Act "not based on numbers" but they could not think of one that would not allow those who "needed" to be regulated to "escape."

After all, Senator Santorum said that "he was going to limit" the numbers of dogs sold by large-scale Pennsylvania breeders.

Most of PAWS consists of what the AKC had previously proposed as an alternative to the Puppy Protection Act - except the regulation of hobby breeders.

The AKC did not "write" the bill - although the AKC should get credit for having its own provisions included in it.

The AKC did not "collaborate or even discuss" PAWS with animal extremists - until a few days before it was introduced (at which point, by necessary implication, the AKC did have such collaboration or discussion).

PAWS is different from the Puppy Protection Act because there is nothing in the text of PAWS that "resembles the PPA in any way." It "doesn't tell breeders how to breed and raise puppies. The bill will not require persons to "build kennels. . ." - although Dr. Holt next says that "the USDA will have to write implementing regulations, including regulations covering breeders who raise puppies in their own homes."

Despite the fear expressed by Dr. Holt that the AKC could not prevent the USDA from defining hobby breeders out of the exemption from the AWA, the "AKC will certainly be involved" in the adoption of the new "regulations covering breeders who raise puppies in their own homes" and "it is *likely* that our own standards will be a model the USDA will look to in crafting the regulations." (Emphasis added).

Rescue organizations do not have to worry about being subject to regulation unless they are "selling" dogs for "compensation or profit." Like hobby kennels, the USDA "does not now" regulate non-profit rescue organizations. However, unlike his assertion about hobby kennels, Dr. Holt summarily concludes, without support, that "there is no reason to believe" the USDA would change their regulation to cover rescuers.

Dog News, June -, 2005, pp. - - - (Reprinted from forwarded e-mails - ed).

In this paper, I will explain the provisions of the AWA, and discuss the amendments that Congress has made to it. I will set forth the key provisions of the AWA and the regulations that were promulgated by the U.S. Department of Agriculture (USDA) to implement the AWA. I will explain the efforts by the Doris Day Animal League (DDAL) to effect changes to the regulations that endangered hobby breeders and the litigation that DDAL filed. I will explain PAWS and describe the historic shift in the AKC's recently announced position about PAWS. I will argue that the AKC's position, as espoused by

Dr. Holt, constitutes a capitulation that will result in severe economic effects on hobby breeders in the United States. Finally, I will propose an alternative position that protects hobby breeders.

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¹ Letter from Noreen Baxter, AKC Vice President for Public Education and Legislation, dated September 23, 1998 to the U.S. Department of Agriculture in opposition to the Petition of the Doris Day Animal League for rule-making, pg.2.

² At the time of this writing, PAWS has been officially opposed by 17 National pet animal groups including the United Kennel Club, the American Dog Breeders Association [Ed. note: Opposition unconfirmed], The Cat Fanciers Association, and the U.S. Sportsmen's Alliance, 12 AKC Parent Clubs including the German Shorthaired Pointer Club of America, the Papillon Club of America, the American Brittany Club, the Yorkshire Terrier Club of America, and the American Boxer Club, 46 local clubs including the following AKC Member Clubs: the Greater Clark County Kennel Club, the Ladies Dog Club, Inc., the Asheville Kennel Club [Ed. note: "Official" Opposition denied], the Kalamazoo Kennel Club, the North Shore Kennel Club, and the New Brunswick Kennel Club, as well as 26 statewide organizations.

³ Letter from Noreen Baxter, *ibid.*

⁴ *Ibid.*

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The Animal Welfare Act Overview

Dr. Holt argues that it is far superior to pass PAWS and codify a partial exemption for hobby breeders in the AWA than it is to rely upon a regulatory exemption that hobby breeders have enjoyed without modification for 35 years.

The original version of the AWA was adopted by an Act of Congress in 1966. Originally labeled the Laboratory Animal Welfare Act, the law was designed to ensure the humane treatment of laboratory animals.

In 1970, the AWA was passed that increased the jurisdiction of the USDA to include other animal owner and user groups, including wholesale sales of animals whose ultimate purpose is use as pets.⁵

After 1970, the AWA regulated "dealers" as well as research facilities. The term "dealer" is defined in 7 USC § 2132 as:

. . .any person who, in commerce, for compensation or profit, delivers for transportation, or transports. . .buys, or sells, or negotiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include---

(i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or

(ii) any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than \$500 gross income from the sale of other animals during any calendar year. . .⁶

The intent of the AWA was to .regulate wholesale dealers of dogs and cats.⁷ Retail sellers were specifically excluded from regulation under the AWA. The term "retail pet store," which is statutorily excluded from the AWA, was not defined in the statute.

The AWA was amended a second time in 1976. This amendment "addresses two problems not reached by the present law; (1) mistreatment of animals in the course of their transportation affecting commerce; and (2) animal fighting ventures."⁸

In 1985, Congress amended the AWA for a third time. The 1985 amendment extended the definition of the word "animal."⁹

Congress could not resist the temptation to amend the AWA a fourth time. In 2002, the AWA was again amended to change the definition of "animal," criminalizing the sponsoring of an animal in an animal fighting venture, increasing certain fines, among other changes.¹⁰

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⁵ Pub. L. 91-579, Dec. 24, 1970, 84 Stat. 1560.

⁶ 7 USC § 2132.

⁷ "THE BILL REGULATES MORE PEOPLE WHO HANDLE ANIMALS. IT WILL, FOR EXAMPLE, BRING INTO THE REGULATORY FRAMEWORK OF THE ACT FOR THE FIRST TIME EXHIBITORS (SUCH AS CIRCUSES, ZOOS, CARNIVALS, AND ROAD SHOWS) AND WHOLESALE PET DEALERS." House Report NO.-91-1651, December 2, 1970, Cong. Record Vol. 116 (1970).

⁸ House Report 94-801, January 29, 1976, Cong. Record Vol. 121-122 (1976).

⁹ Pub. L. 99-198, Title XVII, 1756(b), Dec. 23, 1985, 99 Stat. 1650.

¹⁰ H.R. Conference Report 107-424, May 1, 2002, Cong. Record Vol. 148 (2002).

The Animal Welfare Act - The Statutory Environment

The AWA regulates dealers in many significant respects.

A dealer must have a license to sell an animal under 7 USC § 2134:

§ 2134. Valid license for dealers and exhibitors required

No dealer or exhibitor shall sell or offer to sell . . . in commerce . . . for use as a pet any animal . . . unless and until such dealer . . . shall have obtained a license from the Secretary and such license shall not have been suspended or revoked.

A dealer must maintain records required by the USDA under 7 USC § 2140:

§ 2140. Recordkeeping by dealers, exhibitors, research facilities, intermediate handlers, and carriers

Dealers . . . shall make and retain for such reasonable period of time as the Secretary may prescribe, such records with respect to the purchase, sale, transportation, identification, and previous ownership of animals as the Secretary may prescribe. . . . Such records shall be made available at all reasonable times for inspection and copying by the Secretary.

Dealers are subject to regulations that the Secretary of Agriculture may proscribe pursuant to 7 USC § 2143:

§ 2143. Standards and certification process for humane handling, care, treatment, and transportation of animals

(a) Promulgation of standards, rules, regulations, and orders; requirements; research facilities; State authority

(1) The Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers. . .

(2) The standards described in paragraph (1) shall include minimum requirements-

(A) for handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, and separation by species where the Secretary finds necessary for humane handling, care, or treatment of animals; and

(B) for exercise of dogs, as determined by an attending veterinarian in accordance with general standards promulgated by the Secretary, and for a physical environment adequate to promote the psychological well-being of primates. . .

(5) In promulgating and enforcing standards established pursuant to this section, the Secretary is authorized and directed to consult experts, including outside consultants where indicated.

The USDA had the power to conduct inspections and investigations of dealers' facilities pursuant to 7 USC § 2146 and 2149. The Organized Crime Control Act applies to give the USDA greater power:

§ 2146. Administration and enforcement by Secretary

(a) Investigations and inspections

The Secretary shall make such investigations or inspections as he deems necessary to determine whether any dealer. . . has violated or is violating any provision of this chapter or any regulation or standard issued thereunder, and for such purposes, the Secretary shall, at all reasonable times, have access to the places of business and the facilities, animals, and those records required to be kept pursuant to section 2140 of this title of any such dealer. . . The Secretary shall promulgate such rules and regulations as he deems necessary to permit inspectors to confiscate or destroy in a humane manner any animal found to be suffering as a result of a failure to comply with any provision of this chapter or any regulation or standard issued thereunder if (1) such animal is held by a dealer. . .

(b) Penalties for interfering with official duties

Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be fined not more than \$5,000, or imprisoned not more than three years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this chapter shall be punished as provided under sections 1111 and 1114 of Title 18.

(c) Procedures

For the efficient administration and enforcement of this chapter and the regulations and standards promulgated under this chapter, the provisions (including penalties) of sections 46, 48, 49 and 50 of Title 15 (except paragraph (c) through (h) of section 46 and the last paragraph of section 49 of Title 15), and the provisions of Title II of the Organized Crime Control Act of 1970, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this chapter and to any person, firm, or corporation with respect to whom such authority is exercised. The Secretary may prosecute any inquiry necessary to his duties under this chapter in any part of the United States. .

§ 2149. Violations by licensees

(a) Temporary license suspension; notice and hearing; revocation

If the Secretary has reason to believe that any person licensed as a dealer. . . has violated or is violating any provision of this chapter, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed 21 days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.

(b) Civil penalties for violation of any section, etc.; separate offenses; notice and hearing; appeal; considerations in assessing penalty; compromise of penalty; civil action by Attorney General for failure to pay penalty; district court jurisdiction; failure to obey cease and desist order

Any dealer. . . that violates any provision of this chapter, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than \$2,500 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. . . . Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a civil penalty of \$1,500 for each offense, and each day during which such failure continues shall be deemed a separate offense. . .

(d) Criminal penalties for violation; initial prosecution brought before United States magistrate judges; conduct of prosecution by attorneys of United States Department of Agriculture

Any dealer. . . who knowingly violates any provision of this chapter shall, on conviction thereof, be subject to imprisonment for not more than 1 year, or a fine of not more than \$2,500, or both. . .

Finally, the Secretary of Agriculture has authority to adopt regulations to carry out the AWA:

§ 2151. Rules and regulations

The Secretary is authorized to promulgate such rules, regulations, and orders as he may deem necessary in order to effectuate the purposes of this chapter.

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AWA Conclusions

Animal dealers are subject to the jurisdiction of the USDA under the AWA. Originally designed to regulate research facilities in 1966, the AWA has been amended in 1970, 1976, 1985, and 2002. On each occasion, the amendment brought greater restrictions - not fewer. In none of the amendments, however, was the term "dealer" held to mean anything other than a wholesale distributor of animals. It was not meant, nor did Congress assert that it meant, retail sellers of animals, much less hobby breeders selling dogs out of their own homes.

Contrary to the implication made by Dr. Holt that hobby breeders are safer under an environment wherein they have a limited exemption codified in the Animal Welfare Act itself rather than under the USDA regulations, we can see from the fact that the AWA has been amended on four occasions that this implication is false.

We will now look at the regulations that are applicable to animal dealers as that term is currently defined in the AWA.

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The Regulations - The Definitions

In preparing this paper, I struggled with whether to include the actual text of the numerous, complex regulations with which the USDA requires animal dealers to comply. I made the decision to include them. They are voluminous, which makes the case against PAWS better than any opinion that could be written. These regulations speak for themselves.

The regulations promulgated by the USDA under the AWA are found in Title 9, Chapter I, Subchapter A of the Code of Federal Regulations (CFR).

9 CFR § 1.1 provides definitions.¹¹ The following definitions are relevant to the discussion about the AKC's position on PAWS:

Class "A" licensee (breeder) means a person subject to the licensing requirements under part 2 and meeting the definition of a "dealer" (§ 1.1), and whose business involving animals consists *only* of animals that are bred and raised on the premises in a closed or stable colony *and* those animals acquired for the sole purpose of maintaining or enhancing the breeding colony. (Emphasis added).

Class "B" licensee means a person subject to the licensing requirements under part 2 and meeting the definition of a "dealer" (§ 1.1), *and* whose business includes the purchase and/or resale of any animal. This term includes brokers, and operators of an auction sale, as such individuals negotiate or arrange for the purchase, sale, or transport of animals in commerce. Such individuals do not usually take actual physical possession or control of the animals, and do not usually hold animals in any facilities. A class "B" licensee may also exhibit animals as a minor part of the business. . . (Emphasis added).

Commerce means trade, traffic, transportation, or other commerce:

- (1) Between a place in a State and any place outside of such State, including any foreign country, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia; or
- (2) Which affects the commerce described in this part.

Dealer means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of: Any dog or other animal . . . for use as a pet; or any dog at the wholesale level for hunting, security, or breeding purposes. *This term does not include: A retail pet store, as defined in this section, unless such store sells any animal to a research facility, an exhibitor, or a dealer (wholesale); any retail outlet where dogs are sold for hunting, breeding, or security purposes; or any person who does not sell or negotiate the purchase or sale of any wild or exotic animal, dog, or cat and who derives no more than \$500 gross income from the sale of animals other than wild or exotic animals, dogs, or cats during any calendar year.*¹² (Emphasis added).

Indoor housing facility means any structure or building with environmental controls housing or intended to house animals and meeting the following three requirements:

- (1) It must be capable of controlling the temperature within the building or structure within the limits set forth for that species of animal, of maintaining humidity levels of 30 to 70 percent and of rapidly eliminating odors from within the building; and
- (2) It must be an enclosure created by the continuous connection of a roof, floor, and walls (a shed or barn set on top of the ground does not have a continuous connection between the walls and the ground unless a foundation and floor are provided); and
- (3) It must have at least one door for entry and exit that can be opened and closed (any windows or openings which provide natural light must be covered with a transparent material such as glass or hard plastic).

Outdoor housing facility means any structure, building, land, or premise, housing or intended to house animals, which does not meet the definition of any other type of housing facility provided in the regulations, and in which temperatures cannot be controlled within set limits.

Random source means dogs and cats obtained from animal pounds or shelters, auction sales, or from any person who did not breed and raise them on his or her premises.

Retail pet store means *any outlet* where only the following animals are sold or offered for sale, at retail, for use as pets: Dogs, cats, rabbits, guinea pigs, hamsters, gerbils, rats, mice, gophers, chinchilla, domestic ferrets, domestic farm animals, birds, and coldblooded species. Such definition excludes- (Emphasis added).

- (1) Establishments or persons who deal in dogs used for hunting, security, or breeding purposes;
- (2) Establishments or persons exhibiting, selling, or offering to exhibit or sell any wild or exotic or other nonpet species of warmblooded animals (except birds), such as skunks, raccoons, nonhuman primates, squirrels, ocelots, foxes, coyotes, etc.;
- (3) Any establishment or person selling warmblooded animals (except birds, and laboratory rats and mice) for research or exhibition purposes; and
- (4) Any establishment wholesaling any animals (except birds, rats and mice).
- (5) Any establishment exhibiting pet animals in a room that is separate from or adjacent to the retail pet store, or in an outside area, or anywhere off the retail pet store premises.

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¹¹ CFR 1.1 has been amended a number of times to address such issues as salmonella and to enact regulations pursuant to the statutory amendments that Congress adopted. There have been no changes to the definitions relevant to the text of this article.

¹² The regulation's basic definition of "retail pet store" to mean "any outlet," without distinguishing homes from traditional business locations, dates back to 1971. See 36 Fed. Reg. 24, 919 (Dec. 24, 1971)

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The Care and Facilities Regulations

Dr. Holt made the statement that PAWS would not require hobby breeders to "build kennels. . ." An interesting position to take, and one that appears to be more of a sublime hope than a rational inference from the text of the bill.

9 CFR Part 3 sets forth **SPECIFICATIONS FOR THE HUMANE HANDLING, CARE, TREATMENT, AND TRANSPORTATION OF DOGS AND CATS**. This part of the regulations is broken down into three subparts: Facilities and Operating Standards, Animal Health and Husbandry Standards, and Transportation Standards. Relevant regulations include the following:

§ 3.1 Housing facilities, general.

(a) Structure; construction. Housing facilities for dogs and cats must be designed and constructed so that they are structurally sound. They must be kept in good repair, and they must protect the animals from injury, contain the animals securely, and restrict other animals from entering.

(b) Condition and site. Housing facilities and areas used for storing animal food or bedding must be free of any accumulation of trash, waste material, junk, weeds, and other discarded materials. Animal areas inside of housing facilities must be kept neat and free of clutter, including equipment, furniture, and stored material, but may contain materials actually used and necessary for cleaning the area, and fixtures or equipment necessary for proper husbandry practices and research needs. Housing facilities other than those maintained by research facilities and Federal research facilities must be physically separated from any other business. If a housing facility is located on the same premises as another business, it must be physically separated from the other business so that animals the size of dogs, skunks, and raccoons are prevented from entering it.

(c) Surfaces-

(1) General requirements. The surfaces of housing facilities--including houses, dens, and other furniture-type fixtures and objects within the facility--must be constructed in a manner and made of materials that allow them to be readily cleaned and sanitized, or removed or replaced when worn or soiled. Interior surfaces and any surfaces that come in contact with dogs or cats must:

(i) Be free of excessive rust that prevents the required cleaning and sanitization, or that affects the structural strength of the surface; and

(ii) Be free of jagged edges or sharp points that might injure the animals.

(2) Maintenance and replacement of surfaces. All surfaces must be maintained on a regular basis. Surfaces of housing facilities--including houses, dens, and other furniture-type fixtures and objects within the facility--that cannot be readily cleaned and sanitized, must be replaced when worn or soiled.

(3) Cleaning. Hard surfaces with which the dogs or cats come in contact must be spot-cleaned daily and sanitized in accordance with § 3.11(b) of this subpart to prevent accumulation of excreta and reduce disease hazards. Floors made of dirt, absorbent bedding, sand, gravel, grass, or other similar material must be raked or spot-cleaned with sufficient frequency to ensure all animals the freedom to avoid contact with excreta. Contaminated material must be replaced whenever this raking and spot-cleaning is not sufficient to prevent or eliminate odors, insects, pests, or vermin infestation. All other surfaces of housing facilities must be cleaned and sanitized when necessary to satisfy generally accepted husbandry standards and practices. Sanitization may be done using any of the methods provided in § 3.11(b)(3) for primary enclosures.

(d) Water and electric power. The housing facility must have reliable electric power adequate for heating, cooling, ventilation, and lighting, and for carrying out other husbandry requirements in accordance with the regulations in this

subpart. The housing facility must provide adequate running potable water for the dogs' and cats' drinking needs, for cleaning, and for carrying out other husbandry requirements.

(e) Storage. Supplies of food and bedding must be stored in a manner that protects the supplies from spoilage, contamination, and vermin infestation. The supplies must be stored off the floor and away from the walls, to allow cleaning underneath and around the supplies. Foods requiring refrigeration must be stored accordingly, and all food must be stored in a manner that prevents contamination and deterioration of its nutritive value. All open supplies of food and bedding must be kept in leakproof containers with tightly fitting lids to prevent contamination and spoilage. Only food and bedding that is currently being used may be kept in the animal areas. Substances that are toxic to the dogs or cats but are required for normal husbandry practices must not be stored in food storage and preparation areas, but may be stored in cabinets in the animal areas.

(f) Drainage and waste disposal. Housing facility operators must provide for regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids and wastes, and dead animals, in a manner that minimizes contamination and disease risks. Housing facilities must be equipped with disposal facilities and drainage systems that are constructed and operated so that animal waste and water are rapidly eliminated and animals stay dry. Disposal and drainage systems must minimize vermin and pest infestation, insects, odors, and disease hazards. All drains must be properly constructed, installed, and maintained. If closed drainage systems are used, they must be equipped with traps and prevent the backflow of gases and the backup of sewage onto the floor. If the facility uses sump or settlement ponds, or other similar systems for drainage and animal waste disposal, the system must be located far enough away from the animal area of the housing facility to prevent odors, diseases, pests, and vermin infestation. Standing puddles of water in animal enclosures must be drained or mopped up so that the animals stay dry. Trash containers in housing facilities and in food storage and food preparation areas must be leakproof and must have tightly fitted lids on them at all times. Dead animals, animal parts, and animal waste must not be kept in food storage or food preparation areas, food freezers, food refrigerators, or animal areas.

(g) Washrooms and sinks. Washing facilities such as washrooms, basins, sinks, or showers must be provided for animal caretakers and must be readily accessible.

§ 3.2 Indoor housing facilities.

(a) Heating, cooling, and temperature. Indoor housing facilities for dogs and cats must be sufficiently heated and cooled when necessary to protect the dogs and cats from temperature or humidity extremes and to provide for their health and well-being. When dogs or cats are present, the ambient temperature in the facility must not fall below 50° F (10° C) for dogs and cats not acclimated to lower temperatures, for those breeds that cannot tolerate lower temperatures without stress or discomfort (such as short-haired breeds), and for sick, aged, young, or infirm dogs and cats, except as approved by the attending veterinarian. Dry bedding, solid resting boards, or other methods of conserving body heat must be provided when temperatures are below 50° F (10° C). The ambient temperature must not fall below 45° F (7.2° C) for more than 4 consecutive hours when dogs or cats are present, and must not rise above 85° F (29.5 ° C) for more than 4 consecutive hours when dogs or cats are present. The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.

(b) Ventilation. Indoor housing facilities for dogs and cats must be sufficiently ventilated at all times when dogs or cats are present to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation. Ventilation must be provided by windows, vents, fans, or air conditioning. Auxiliary ventilation, such as fans, blowers, or air conditioning must be provided when the ambient temperature is 85° F (29.5° C) or higher. The relative humidity must be maintained at a level that ensures the health and well-being of the dogs or cats housed therein, in accordance with the directions of the attending veterinarian and generally accepted professional and husbandry practices.

(c) Lighting. Indoor housing facilities for dogs and cats must be lighted well enough to permit routine inspection and cleaning of the facility, and observation of the dogs and cats. Animal areas must be provided a regular diurnal lighting cycle of either natural or artificial light. Lighting must be uniformly diffused throughout animal facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning, adequate inspection of animals, and for the well-being of the animals. Primary enclosures must be placed so as to protect the dogs and cats from excessive light.

(d) Interior surfaces. The floors and walls of indoor housing facilities, and any other surfaces in contact with the animals, must be impervious to moisture. The ceilings of indoor housing facilities must be impervious to moisture or be replaceable (e.g., a suspended ceiling with replaceable panels).

§ 3.4 Outdoor housing facilities.

(a) Restrictions.

(1) The following categories of dogs or cats must not be kept in outdoor facilities, unless that practice is specifically approved by the attending veterinarian:

(i) Dogs or cats that are not acclimated to the temperatures prevalent in the area or region where they are maintained;

(ii) Breeds of dogs or cats that cannot tolerate the prevalent temperatures of the area without stress or discomfort (such as short-haired breeds in cold climates); and

(iii) Sick, infirm, aged or young dogs or cats.

(2) When their acclimation status is unknown, dogs and cats must not be kept in outdoor facilities when the ambient temperature is less than 50° F (10° C).

(b) Shelter from the elements. Outdoor facilities for dogs or cats must include one or more shelter structures that are accessible to each animal in each outdoor facility, and that are large enough to allow each animal in the shelter structure to

sit, stand, and lie in a normal manner, and to turn about freely. In addition to the shelter structures, one or more separate outside areas of shade must be provided, large enough to contain all the animals at one time and protect them from the direct rays of the sun. Shelters in outdoor facilities for dogs or cats must contain a roof, four sides, and a floor, and must:

- (1) Provide the dogs and cats with adequate protection and shelter from the cold and heat;
- (2) Provide the dogs and cats with protection from the direct rays of the sun and the direct effect of wind, rain, or snow;
- (3) Be provided with a wind break and rain break at the entrance; and
- (4) Contain clean, dry, bedding material if the ambient temperature is below 50° F (10° C). Additional clean, dry bedding is required when the temperature is 35° F (1.7° C) or lower.

(c) Construction. Building surfaces in contact with animals in outdoor housing facilities must be impervious to moisture. Metal barrels, cans, refrigerators or freezers, and the like must not be used as shelter structures. The floors of outdoor housing facilities may be of compacted earth, absorbent bedding, sand, gravel, or grass, and must be replaced if there are any prevalent odors, diseases, insects, pests, or vermin. All surfaces must be maintained on a regular basis. Surfaces of outdoor housing facilities-- including houses, dens, etc.--that cannot be readily cleaned and sanitized, must be replaced when worn or soiled.

§ 3.8 Exercise for dogs.

Dealers, exhibitors, and research facilities must develop, document, and follow an appropriate plan to provide dogs with the opportunity for exercise. In addition, the plan must be approved by the attending veterinarian. The plan must include written standard procedures to be followed in providing the opportunity for exercise. The plan must be made available to APHIS upon request, and, in the case of research facilities, to officials of any pertinent funding Federal agency. The plan, at a minimum, must comply with each of the following:

(a) Dogs housed individually. Dogs over 12 weeks of age, except bitches with litters, housed, held, or maintained by any dealer, exhibitor, or research facility, including Federal research facilities, must be provided the opportunity for exercise regularly if they are kept individually in cages, pens, or runs that provide less than two times the required floor space for that dog, as indicated by § 3.6(c)(1) of this subpart.

(b) Dogs housed in groups. Dogs over 12 weeks of age housed, held, or maintained in groups by any dealer, exhibitor, or research facility, including Federal research facilities, do not require additional opportunity for exercise regularly if they are maintained in cages, pens, or runs that provide in total at least 100 percent of the required space for each dog if maintained separately. Such animals may be maintained in compatible groups, unless:

- (1) Housing in compatible groups is not in accordance with a research proposal and the proposal has been approved by the research facility Committee;
- (2) In the opinion of the attending veterinarian, such housing would adversely affect the health or well-being of the dog(s); or
- (3) Any dog exhibits aggressive or vicious behavior.

(c) Methods and period of providing exercise opportunity.

(1) The frequency, method, and duration of the opportunity for exercise shall be determined by the attending veterinarian and, at research facilities, in consultation with and approval by the Committee.

(2) Dealers, exhibitors, and research facilities, in developing their plan, should consider providing positive physical contact with humans that encourages exercise through play or other similar activities. If a dog is housed, held, or maintained at a facility without sensory contact with another dog, it must be provided with positive physical contact with humans at least daily.

(3) The opportunity for exercise may be provided in a number of ways, such as:

(i) Group housing in cages, pens or runs that provide at least 100 percent of the required space for each dog if maintained separately under the minimum floor space requirements of § 3.6(c)(1) of this subpart;

(ii) Maintaining individually housed dogs in cages, pens, or runs that provide at least twice the minimum floor space required by § 3.6(c)(1) of this subpart;

(iii) Providing access to a run or open area at the frequency and duration prescribed by the attending veterinarian; or

(iv) Other similar activities.

(4) Forced exercise methods or devices such as swimming, treadmills, or carousel-type devices are unacceptable for meeting the exercise requirements of this section.

(d) Exemptions.

(1) If, in the opinion of the attending veterinarian, it is inappropriate for certain dogs to exercise because of their health, condition, or well-being, the dealer, exhibitor, or research facility may be exempted from meeting the requirements of this section for those dogs. Such exemption must be documented by the attending veterinarian and, unless the basis for exemption is a permanent condition, must be reviewed at least every 30 days by the attending veterinarian.

(2) A research facility may be exempted from the requirements of this section if the principal investigator determines for scientific reasons set forth in the research proposal that it is inappropriate for certain dogs to exercise. Such exemption must be documented in the Committee- approved proposal and must be reviewed at appropriate intervals as determined by the Committee, but not less than annually.

(3) Records of any exemptions must be maintained and made available to USDA officials or any pertinent funding Federal agency upon request.

§ 3.9 Feeding.

- (a) Dogs and cats must be fed at least once each day, except as otherwise might be required to provide adequate veterinary care. The food must be uncontaminated, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of the animal. The diet must be appropriate for the individual animal's age and condition.
- (b) Food receptacles must be used for dogs and cats, must be readily accessible to all dogs and cats, and must be located so as to minimize contamination by excreta and pests, and be protected from rain and snow. Feeding pans must either be made of a durable material that can be easily cleaned and sanitized or be disposable. If the food receptacles are not disposable, they must be kept clean and must be sanitized in accordance with § 3.11 (b) of this subpart. Sanitization is achieved by using one of the methods described in § 3.11 (b)(3) of this subpart. If the food receptacles are disposable, they must be discarded after one use. Self-feeders may be used for the feeding of dry food. If self-feeders are used, they must be kept clean and must be sanitized in accordance with § 3.11 (b) of this subpart. Measures must be taken to ensure that there is no molding, deterioration, and caking of feed.

§ 3.10 Watering.

If potable water is not continually available to the dogs and cats, it must be offered to the dogs and cats as often as necessary to ensure their health and well-being, but not less than twice daily for at least 1 hour each time, unless restricted by the attending veterinarian. Water receptacles must be kept clean and sanitized in accordance with § 3.11(b) of this subpart, and before being used to water a different dog or cat or social grouping of dogs or cats.

§ 3.11 Cleaning, sanitization, housekeeping, and pest control.

(a) Cleaning of primary enclosures. Excreta and food waste must be removed from primary enclosures daily, and from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and food waste, to prevent soiling of the dogs or cats contained in the primary enclosures, and to reduce disease hazards, insects, pests and odors. When steam or water is used to clean the primary enclosure, whether by hosing, flushing, or other methods, dogs and cats must be removed, unless the enclosure is large enough to ensure the animals would not be harmed, wetted, or distressed in the process. Standing water must be removed from the primary enclosure and animals in other primary enclosures must be protected from being contaminated with water and other wastes during the cleaning. The pans under primary enclosures with grill-type floors and the ground areas under raised runs with mesh or slatted floors must be cleaned as often as necessary to prevent accumulation of feces and food waste and to reduce disease hazards pests, insects and odors.

(b) Sanitization of primary enclosures and food and water receptacles.

- (1) Used primary enclosures and food and water receptacles must be cleaned and sanitized in accordance with this section before they can be used to house, feed, or water another dog or cat, or social grouping of dogs or cats.
- (2) Used primary enclosures and food and water receptacles for dogs and cats must be sanitized at least once every 2 weeks using one of the methods prescribed in paragraph (b)(3) of this section, and more often if necessary to prevent an accumulation of dirt, debris, food waste, excreta, and other disease hazards.
- (3) Hard surfaces of primary enclosures and food and water receptacles must be sanitized using one of the following methods:

- (i) Live steam under pressure;
- (ii) Washing with hot water (at least 180° F (82.2° C) and soap or detergent, as with a mechanical cage washer; or
- (iii) Washing all soiled surfaces with appropriate detergent solutions and disinfectants, or by using a combination detergent/disinfectant product that accomplishes the same purpose, with a thorough cleaning of the surfaces to remove organic material, so as to remove all organic material and mineral buildup, and to provide sanitization followed by a clean water rinse.

(4) Pens, runs, and outdoor housing areas using material that cannot be sanitized using the methods provided in paragraph (b)(3) of this section, such as gravel, sand, grass, earth, or absorbent bedding, must be sanitized by removing the contaminated material as necessary to prevent odors, diseases, pests, insects, and vermin infestation.

(c) Housekeeping for premises. Premises where housing facilities are located, including buildings and surrounding grounds, must be kept clean and in good repair to protect the animals from injury, to facilitate the husbandry practices required in this subpart, and to reduce or eliminate breeding and living areas for rodents and other pests and vermin. Premises must be kept free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled so as to facilitate cleaning of the premises and pest control, and to protect the health and well-being of the animals.

(d) Pest control. An effective program for the control of insects, external parasites affecting dogs and cats, and birds and mammals that are pests, must be established and maintained so as to promote the health and well-being of the animals and reduce contamination by pests in animal areas.

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The Licensing Regulations

9 CFR, Part 2 contains licensing regulations that apply to Class A and B licensees/dealers. The following regulations must be met by persons in these categories:

§ 2.3 Demonstration of compliance with standards and regulations.

(a) Each applicant must demonstrate that his or her premises and any animals, facilities, vehicles, equipment, or other premises used or intended for use in the business comply with the regulations and standards set forth in parts 2 and 3 of this subchapter. Each applicant for an initial license or license renewal must make his or her animals, premises, facilities, vehicles, equipment, other premises, and records available for inspection during business hours and at other times mutually agreeable to the applicant and APHIS, to ascertain the applicant's compliance with the standards and regulations.

(b) Each applicant for an initial license must be inspected by APHIS and demonstrate compliance with the regulations and standards, as required in paragraph (a) of this section, before APHIS will issue a license. If the first inspection reveals that the applicant's animals, premises, facilities, vehicles, equipment, other premises, or records do not meet the requirements of this subchapter, APHIS will advise the applicant of existing deficiencies and the corrective measures that must be completed to come into compliance with the regulations and standards. An applicant who fails the first inspection will have two additional chances to demonstrate his or her compliance with the regulations and standards through a second inspection by APHIS. The applicant must request the second inspection, and if applicable, the third inspection, within 90 days following the first inspection. If the applicant fails inspection or fails to request reinspections within the 90-day period, he or she will forfeit the application fee and cannot reapply for a license for a period of 6 months from the date of the failed third inspection or the expiration of the time to request a third inspection. Issuance of a license will be denied until the applicant demonstrates upon inspection that the animals, premises, facilities, vehicles, equipment, other premises, and records are in compliance with all regulations and standards in this subchapter.

§ 2.4 Non-interference with APHIS officials.

A licensee or applicant for an initial license shall not interfere with, threaten, abuse (including verbally abuse), or harass any APHIS official in the course of carrying out his or her duties.

§ 2.6 Annual license fees.

(a) For an initial license, the applicant must submit a \$10 application fee in addition to the initial license fee prescribed in this section. Licensees applying for license renewal or changed class of license must submit only the license fee prescribed in this section. The license fee for an initial license, license renewal, or changed class of license is determined from table 1 or 2 in paragraph (c) of this section. Paragraph (b) of this section indicates the method used to calculate the license fee. All initial license and changed class of license fees must be submitted to the appropriate Animal Care regional office, and, in the case of license renewals, all fees must be received by the appropriate Animal Care regional office on or before the expiration date of the license.

(b)(1) Class "A" license. The annual license renewal fee for a Class "A" dealer shall be based on 50 percent of the total gross amount, expressed in dollars, derived from the sale of animals to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, directly or through an auction sale, by the dealer or applicant during his or her preceding business year (calendar or fiscal) in the case of a person who operated during such a year. If animals are leased, the lessor shall pay a fee based on 50 percent of any compensation received from the leased animals and the lessee shall pay a fee based upon the net compensation received from the leased animals, as indicated for dealers in Table 1 in paragraph (c) of this section.

(2) Class "B" license. The annual license renewal fee for a Class "B" dealer shall be established by calculating the total amount received from the sale of animals to research facilities, dealers, exhibitors, retail pet stores; and persons for use as pets, directly or through an auction sale, during the preceding business year (calendar or fiscal) less the amount paid for the animals by the dealer or applicant. This net difference, exclusive of other costs, shall be the figure used to determine the license fee of a Class "B" dealer. If animals are leased, the lessor and lessee shall each pay a fee based on the net compensation received from the leased animals calculated from Table 1 in paragraph (c) of this section. . .

(4) In the case of a new applicant for a license as a dealer, broker or operator of an auction sale who did not operate during a preceding business year, the annual license fee will be based on the anticipated yearly dollar amount of business, as provided in paragraphs (b)(1), (2), and (3) of this section, derived from the sale of animals to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, directly or through an auction sale. . .

(c) The license fee shall be computed in accordance with the following tables:

Table 1. --Dealers, Brokers, and Operators of an Auction Sale-- Class "A" and "B" License

Over	But not over	Initial license fee	Annual or changed class of license fee
\$0	\$500	\$30	\$40
500	2000	60	70
2000	10,000	120	130
10,000	25,000	225	235
25,000	50,000	350	360
50,000	100,000	475	485
100,000	. . .	750	760

§ 2.7 Annual report by licensees.

(a) Each year, within 30 days prior to the expiration date of his or her license, a licensee shall file with the AC Regional Director the an application for license renewal and annual report upon a form which the AC Regional Director will furnish to him or her upon request.

(b) A person licensed as a dealer shall set forth in his or her license renewal application and annual report the dollar amount of business, from the sale of animals, upon which the license fee is based, directly or through an auction sale, to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, by the licensee during the preceding business year (calendar or fiscal), and any other information as may be required thereon. . .

§ 2.8 Notification of change of name, address, control, or ownership of business.

A licensee shall promptly notify the AC Regional Director by certified mail of any change in the name, address, management, or substantial control or ownership of his business or operation, or of any additional sites, within 10 days of any change.

§ 2.75 Records: Dealers and exhibitors.

(a)(1) Each dealer. . . shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning each dog or cat purchased or otherwise acquired, owned, held, or otherwise in his or her possession or under his or her control, or which is transported, euthanized, sold, or otherwise disposed of by that dealer or exhibitor. The records shall include any offspring born of any animal while in his or her possession or under his or her control.

(i) The name and address of the person from whom a dog or cat was purchased or otherwise acquired whether or not the person is required to be licensed or registered under the Act;

(ii) The USDA license or registration number of the person if he or she is licensed or registered under the Act;

(iii) The vehicle license number and State, and the driver's license number (or photographic identification card for nondrivers issued by a State) and State of the person, if he or she is not licensed or registered under the Act;

(iv) The name and address of the person to whom a dog or cat was sold or given and that person's license or registration number if he or she is licensed or registered under the Act;

(v) The date a dog or cat was acquired or disposed of, including by euthanasia;

(vi) The official USDA tag number or tattoo assigned to a dog or cat under §§ 2.50 and 2.54;

(vii) A description of each dog or cat which shall include:

(A) The species and breed or type;

(B) The sex;

(C) The date of birth or approximate age; and

(D) The color and any distinctive markings;

(viii) The method of transportation including the name of the initial carrier or intermediate handler or, if a privately owned vehicle is used to transport a dog or cat, the name of the owner of the privately owned vehicle;

(ix) The date and method of disposition of a dog or cat, e.g., sale, death, euthanasia, or donation.

(2) Each dealer and exhibitor shall use Record of Acquisition and Dogs and Cats on Hand (APHIS Form 7005) and Record of Disposition of Dogs and Cats (APHIS Form 7006) to make, keep, and maintain the information required by paragraph (a)

(1) of this section: Provided, that if a dealer or exhibitor who uses a computerized recordkeeping system believes that APHIS Form 7005 and APHIS Form 7006 are unsuitable for him or her to make, keep, and maintain the information required by paragraph (a)(1) of this section, the dealer or exhibitor may request a variance from the requirement to use APHIS Form 7005 and APHIS Form 7006.

(i) The request for a variance must consist of a written statement describing why APHIS Form 7005 and APHIS Form 7006 are unsuitable for the dealer or exhibitor to make, keep, and maintain the information required by paragraph (a)(1) of this section, and a description of the computerized recordkeeping system the person would use in lieu of APHIS Form 7005 and APHIS Form 7006 to make, keep, and maintain the information required by paragraph (a)(1) of this section. APHIS will advise the person as to the disposition of his or her request for a variance from the requirement to use APHIS Form 7005 and APHIS Form 7006.

(ii) A dealer or exhibitor whose request for a variance has been denied may request a hearing in accordance with the applicable rules of practice for the purpose of showing why the request for a variance should not be denied. The denial of the variance shall remain in effect until the final legal decision has been rendered.

(3) The USDA Interstate and International Certificate of Health Examination for Small Animals (APHIS Form 7001) may be used by dealers and exhibitors to make, keep, and maintain the information required by § 2.79.

(4) One copy of the record containing the information required by paragraph (a)(1) of this section shall accompany each shipment of any dog or cat purchased or otherwise acquired by a dealer or exhibitor. One copy of the record containing the information required by paragraph (a)(1) of this section shall accompany each shipment of any dog or cat sold or otherwise disposed of by a dealer or exhibitor. Provided, however, that, except as provided in § 2.133(b) of this part for dealers, information that indicates the source and date of acquisition of a dog or cat need not appear on the copy of the record accompanying the shipment. One copy of the record containing the information required by paragraph (a)(1) of this section shall be retained by the dealer or exhibitor.

(b)(1) Every dealer other than operators of auction sales and brokers to whom animals are consigned, and exhibitor shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning animals other than dogs and cats, purchased or otherwise acquired, owned, held, leased, or otherwise in his or her possession or

under his or her control, or which is transported, sold, euthanized, or otherwise disposed of by that dealer or exhibitor. The records shall include any offspring born of any animal while in his or her possession or under his or her control.

- (i) The name and address of the person from whom the animals were purchased or otherwise acquired;
- (ii) The USDA license or registration number of the person if he or she is licensed or registered under the Act;
- (iii) The vehicle license number and State, and the driver's license number (or photographic identification card for nondrivers issued by a State) and State of the person, if he or she is not licensed or registered under the Act;
- (iv) The name and address of the person to whom an animal was sold or given;
- (v) The date of purchase, acquisition, sale, or disposal of the animal(s);
- (vi) The species of the animal(s); and
- (vii) The number of animals in the shipment.

(2) Record of Animals on Hand (other than dogs and cats) (APHIS Form 7019) and Record of Acquisition, Disposition, or Transport of Animals (other than dogs and cats) (APHIS Form 7020) are forms which may be used by dealers and exhibitors to keep and maintain the information required by paragraph (b)(1) of this section concerning animals other than dogs and cats except as provided in § 2.79.

(3) One copy of the record containing the information required by paragraph (b)(1) of this section shall accompany each shipment of any animal(s) other than a dog or cat purchased or otherwise acquired by a dealer or exhibitor. One copy of the record containing the information required by paragraph (b)(1) of this section shall accompany each shipment of any animal other than a dog or cat sold or otherwise disposed of by a dealer or exhibitor; Provided, however, That information which indicates the source and date of acquisition of any animal other than a dog or cat need not appear on the copy of the record accompanying the shipment. The dealer or exhibitor shall retain one copy of the record containing the information required by paragraph (b)(1) of this section.

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The Regulations - Conclusion

The USDA has promulgated substantial regulations that govern the care given by and facilities of Class A and B licensees/dealers. APHID has the authority to inspect those facilities at any time to ensure compliance. Although retail pet store is undefined in the AWA, the USDA has defined retail pet store to exclude "any outlet" where dogs and cats are sold at retail as pets.

This definition has been left unchanged for almost 35 years by the USDA, which is charged with the enforcement of the AWA and who understands that the purpose of the AWA is to regulate wholesale dealers, not hobby kennels operating out of private residences. In sharp contrast, the AWA itself has been amended four times. Yet the main argument made by Dr. Holt is that breeders are excluded from regulation essentially by the whim of the USDA - a whim that has gone unchanged for 35 years. The argument cannot be squared with the historical record, as Congress has been more inclined to tinker with the AWA - and consequently regulate more activities, not fewer - than has the USDA whose call is to enforce the AWA.

As we shall see, the USDA's "choice" to exclude hobby breeder has been steadfastly defended by the USDA, even after tremendous assault.

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The Doris Day Animal League Lawsuit

Animal extremist organizations, like the ones that Dr. Holt admits to meeting with in the few days before Sen. Santorum introduced PAWS, have had hobby breeders in their sights for a long time. About that there is no secret and can be no dispute.

In 1995, the Doris Day Animal League (DDAL) filed with the USDA a Petition for Rule-making Change. In its petition, DDAL requested that USDA amend its definition of retail pet store to exclude residential breeders from the definition of a retail "outlet":

The Congressional amendment specifically excluded "retail pet stores." The Department of Agriculture promulgated regulations interpreting the term "retail pet store" to include any retail "outlet" under the 1970 Amendments. The arbitrary expansion of the "retail pet store" exemption called for in the statute to include any "outlet" selling to the consumer confounds any reasonable definition of "store" in the English language and undermines the clear intent of the statute. This expanded exclusion allows dozens if not hundreds of dog breeders to keep animals in inhumane conditions, without adequate veterinary care and completely protected from public view by simply raising and selling pets directly to the public.

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The Secretary of Agriculture published the petition in the Federal Register and received more than 36,000 comments.¹⁴ The Secretary denied DDAL's petition and announced that he would retain the definition. It is important to understand the reason given:

The definition of retail pet store in 9 CFR part 1 was established to ensure that the appropriate *retail* facilities were exempt from licensing and inspection requirements. . . All *retail* facilities that meet the definition of retail pet store, *even those that are not traditional retail pet stores*, are exempt from licensing and inspection requirements. . . (Emphasis added).

. . . we considered amending the definition of "retail pet store" to cover only traditional "stores"-- nonresidential, commercial retail businesses--that sell primarily pets and pet products. If this change had been adopted, *many retail pet dealers would no longer have been considered retail pet stores*, and, unless otherwise exempt under the regulations, *would have been required to be licensed and inspected* in accordance with part 2. However, after careful consideration of comments we received from the public and further review of this issue, we have decided to retain the current definition of "retail pet

store." We based this decision on our experience enforcing the regulations, specifically the several factors discussed below. (Emphasis added).

First, we believe that *our current definition of "retail pet store" conforms with Congress' intention that the AWA focus primarily on dealers who sell wholesale*. During congressional revisions to the AWA, Congress has not challenged our definition of "retail pet store." Therefore, we are confident that our current definition accurately reflects the original and continuing intent of Congress. (Emphasis added).

Further, we believe our implementation of the AWA has significantly improved the well-being of animals owned by the wholesale dealers we regulate, as well as that of the animals owned by retail dealers. Many retail outlets have improved the living standards of their animals in order to meet the standards of their wholesale counterparts.

Second, we have determined that retail dealers, *especially those who sell from their homes*, are already subject to a degree of *self-regulation and oversight by persons who purchase animals from the retailers' homes*, as well as *by breed and registry organizations*. Breed and registry organizations, such as kennel clubs, require their registrants to meet certain guidelines related to the health and genetic makeup of animals bred and to the education of the registrants. These organizations also monitor the conditions under which animals are bred and raised. *Wholesale dealers typically do not have this type of oversight from the public*. (Emphasis added).

Third, we have determined that amending the definition of "retail pet store" to include only nonresidential, commercial retail businesses would *not offer us the regulatory flexibility we need to concentrate our resources on those facilities that present the greatest risk of noncompliance* with the regulations. If we were to amend the definition of "retail pet store," it is conceivable that a significant portion of our annual personnel and financial resources would be used to regulate a very small fraction of the animals covered under our regulations. This *disproportionate expenditure of funds would not be in the best interest of animal welfare*. (Emphasis added).

Fourth, retail outlets are not unregulated. There are already *many State and local laws and ordinances* in place to monitor and respond to allegations of inhumane treatment of and inadequate housing for animals owned by private retail dealers. If we were to regulate these dealers along with State and local officials, it would clearly *not be the most efficient use of our resources*. (Emphasis added).

Fifth, *our inspectors would have to enforce cleaning, sanitation, handling, and other regulatory requirements in private homes*, because most small retail dealers operate from their homes. Many commenters stated that they would regard this as an unnecessary intrusion by the Federal Government and a *serious invasion of privacy*. (Emphasis added).

Based on these factors, we have determined that a change to the definition of "retail pet store" *would not improve animal welfare* in general or our current regulatory program. Therefore, we are retaining our current definition of "retail pet store."¹⁵ (Emphasis added).

The USDA recognized throughout their analysis of the AWA a profound, qualitative distinction between those to be regulated and those who are not. The AWA targets wholesale sellers of dogs and cats only. Retail sellers already have a degree of self-regulation, in that buyers can inspect the facilities to ensure care standards are met, as well as registry bodies like the AKC and CFA who help ensure humane treatment of animals. To regulate retail sellers would result in an inappropriate use of USDA resources, which would not be in the best interests of animal welfare. Finally, USDA inspections of private homes - and this is an important point that has not been emphasized enough in discussing PAWS - would result in a "serious invasion of privacy."

DDAL responded as animal extremist organizations often do when they don't get their way. They sued.

Mr. Holt's assertion that the sole issue in the DDAL lawsuit was the authority of USDA to implement their regulation defining retail pet store to include residential sales does a disservice to the fancy because his assertion falls short of explaining the rationale of the U.S. Court of Appeals. The Court announced the issue before it this way:

The question is what "retail pet store" in § 2132(f)(i) means, or more precisely, what Congress intended it to mean. Those who sell dogs as pets to consumers from their residences are selling pets at retail. But is a residence a "store"? . . . If a homeowner raised dogs; set up a separate place on his property - say, for instance, a small building; installed a counter and a cash register; displayed leashes, collars, and other dog paraphernalia for sale; and advertised the sale of puppies at his address, it would not be much of a stretch to view this too as a store. The local zoning authority might also view the matter that way. . .

Plaintiffs' more serious claim, one that convinced the district court, rests on the structure of 7 U.S.C. § 2132(f), the provision defining "dealer." The definition of "dealer" has two exceptions. The first we have already mentioned: it provides that "dealer" does not include a "retail pet store" (unless the animals are sold to a research facility, exhibitor, or dealer). *Id.* § 2132(f)(i). The second excludes from the definition of dealer "any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than \$500 gross income from the sale of other animals during any calendar year." *Id.* § 2132(f)(ii). One of plaintiffs' arguments is that by not giving sellers of dogs a *de minimis* (\$500) exemption in subsection (ii), Congress meant to make sure that those who sold dogs from their homes remained covered by the Act no matter how much income they generated. But the argument begs the question. If subsection (i) already gave an exemption to residential sellers of dogs as pets (because they were "retail pet stores"), there was no need to give them a *de minimis* exemption in subsection (ii). Plaintiffs also point out that if Congress had wanted to exempt individuals selling dogs from their homes, it could easily have written subsection (i) to cover "any person" rather than "retail pet store," as it

did in subsection (ii). The argument is weak. It may be countered by arguing that if Congress wanted to exclude residential sellers from the definition of retail pet store it easily could have said as much.

Under the regulation, residential retail sellers, like traditional pet stores, are exempt from licensing regardless of whether they make a substantial part of their income from this activity. If the Secretary's interpretation of "retail pet store" is correct, it would have been senseless for Congress to add retail residential sellers in the "other person" clause of § 2133; that would have created a redundancy, or an overlap between the two classes exempt from licensing. Given the regulation, a residential seller may sell an unlimited number of dogs to the public as pets, but he may sell outside of retail channels only if his sales of dogs are less than a substantial portion of his income. The regulation thus preserves both parts of § 2133, allowing each to operate in its sphere. . .

From what we can make out, Congress has paid little attention to the question posed in this case. Still, it is true that in the years since passage of the Act and the Secretary's adoption of the regulation, Congress has not altered the regulatory definition of "retail pet store" although it has amended the act three times. One line of Supreme Court cases holds that "when Congress revisits a statute giving rise to a longstanding administrative interpretation without pertinent change, the 'congressional failure to revise or repeal the agency's interpretation is persuasive evidence that the interpretation is the one intended by Congress.' [citations omitted].

This leaves the argument that the Secretary's resolution of the meaning of "retail pet store" is not a reasonable one. In our judgment the Secretary's decision and policy statement declining to modify the regulation is supported with reasoning that is persuasive and faithful to the Act's purpose of protecting animal welfare. *See generally* Licensing Requirements for Dogs and Cats, 64 Fed. Reg. 38,546 (July 19, 1999). The Secretary spelled out several policy considerations thus:

Second, we have determined that retail dealers, especially those who sell from their homes, are already subject to a degree of self-regulation and oversight by persons who purchase animals from the retailers' homes, as well as by breed and registry organizations. Breed and registry organizations, such as kennel clubs, require their registrants to meet certain guidelines related to the health and genetic makeup of animals bred and to the education of the registrants. These organizations also monitor the conditions under which animals are bred and raised. Wholesale dealers typically do not have this type of oversight from the public. . . .

Fourth, retail outlets are not unregulated. There are already many State and local laws and ordinances in place to monitor and respond to allegations of inhumane treatment of and inadequate housing for animals owned by private retail dealers. If we were to regulate these dealers along with State and local officials, it would clearly not be the most efficient use of our resources.

Id. at 38,547. While plaintiffs are unhappy about the degree of self-regulation and the amount of oversight from local humane societies, kennel clubs, and state agencies, the Secretary, applying his expertise, was entitled to rely on these factors in making his judgment about the need for federal regulation. And he was entitled also to differentiate retail sales from wholesale sales of dogs on the basis that "wholesale dealers typically do not have this type of oversight from the public." *Id.* The Secretary also declined to amend the definition on the ground that the best interest of animal welfare is supported by allowing the Department to "concentrate [its] resources on those facilities that present the greatest risk of noncompliance with the regulations." *Id.* The Department has decided to focus on wholesale dealers, where its resources are likely to yield the greatest benefit. This is a reasonable choice, keeping in mind the purpose of the Act to promote animal welfare.

[Citation omitted]. It was also within the authority delegated to him by Congress for the Secretary to decline to amend the definition in light of the potential invasions of privacy that would result if federal inspectors began enforcing "cleaning, sanitation, handling, and other regulatory requirements in private homes." 64 Fed. Reg. at 38,547.

Taken together, the Secretary's decision to retain the regulatory definition of "retail pet store" reflects the judgment of the agency entrusted with administering the Animal Welfare Act to fulfill the purpose of the Act as effectively as possible. For the reasons given, the regulation is a permissible construction of the statutory term "retail pet store." The order of the district court granting partial summary judgment to the plaintiffs and declaring the regulation invalid is therefore

Reversed.

Doris Day Animal League v. Veneman, 315 F.3d 297 (C.A.D.C. 2003).

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¹³ DDAL Petition for Rule-Making Change, 62 FR 14044-01, March 25, 1997.

¹⁴ 62 Fed. Reg. 14,044 (Mar. 25, 1997)

¹⁵ 64 Fed. Reg. 38,546 (July 19, 1999).

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The Doris Day Animal League Lawsuit - Conclusion

After eight years of contentiousness from the DDAL, the USDA had prevailed in upholding its regulation - in place since 1970 - that excluded residential hobby breeders from regulation under the AWA. The DDAL had failed to persuade the USDA to change its regulation. The DDAL had then sued the USDA in a U.S. District Court. The case made its way to the U.S. Court of Appeals for the District of Columbia Circuit. Following their defeat in the Court of Appeals, DDAL tried to persuade the U.S. Supreme Court to accept review. The Supreme Court denied its petition.¹⁶

The USDA and all hobby breeders were freed from the danger that they had faced in the DDAL's attempt to force the USDA to regulate residential hobby breeders. As the USDA stated in their denial of DDAL's Petition for Rule-Making Change:

If we were to amend the definition of "retail pet store," it is conceivable that a significant portion of our annual personnel and financial resources would be used to regulate a very small fraction of the animals covered under our regulations. This disproportionate expenditure of funds would not be in the best interest of animal welfare.¹⁷

As we shall see, the AKC, in a classic maneuver of snatching defeat from the jaws of victory, would soon present USDA, AKC's constituency, and its former allies in numerous struggles against animal extremism, with a shocking reversal of course.

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¹⁶ Doris Day Animal League v. Veneman, 540 U.S. 822, 124 S.Ct 151, 157 L.Ed.2d 42, (Oct 06, 2003).

¹⁷ 64 Fed. Reg. 38,546 (July 19, 1999)

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AKCs Official Position Against Federal Regulation

We do not need to speculate about AKC's position on the AWA. We have it in writing.

In a long letter to the USDA dated September 23, 1998, Ms. Noreen E. Baxter, Vice President for Public Education and Legislation for the AKC, set forth the AKC's position about the AWA and the Petition for Rule-Making by DDAL:

The AKC's long experience dealing with breeders of purebred dogs and its intimate knowledge of the fancy gives the organization the appropriate background to provide meaningful comments and insight into the issues raised by the regulatory changes contemplated in the ANPR (Advance Notice of Proposed Rulemaking). The contemplated changes would affect a large portion of the AKC's constituency, and its constituency includes virtually all hobby and show breeders who would be affected by the contemplated changes.

For the reasons set forth in detail below, the AKC believes USDA's current definition of "retail pet store" should be maintained, as it comports fully with the purpose of the Animal Welfare Act and prudently directs USDAYs limited enforcement resources to the area where they are most needed - the *wholesale* distribution and sale of dogs. . . (Emphasis in original).

In the event that USDA determines regulatory changes in this area are necessary, AKC recommends an approach which is both practical within the scope of agency resources and which would target the type of breeders properly subject to regulation - *commercial* breeders. . . AKC believes that all wholesale activity should continue to be regulated, as such activity poses the greatest potential for abuse and regulation of such activity is clearly contemplated in the statute. . . (Emphasis in original).

The 1970 Amendment explicitly exempted "retail pet stores" from regulation, although it left the term undefined. . . Thus, for nearly thirty years, it has been well-settled that the purpose of federal animal welfare legislation has been to regulate *wholesale* distribution of animals, and those activities that are integrally related to wholesale distribution such as transportation and handling. During this thirty-year period, this *qualitative* wholesale/retail distinction has been authoritatively adopted by this agency on two occasions, left undisturbed (if not explicitly endorsed) by several Congressional revisions, and unchallenged by the regulatory community or public-at-large. For the reasons set forth below, we believe it is the proper basis for regulation. . . (Emphasis in original).

The clear effect of the package of regulatory amendments being contemplated is an abandonment of the long-standing *qualitative* basis for regulation - the wholesale/retail distinction -- in favor of a strictly *quantitative* basis - *i.e.* the number of breeding females maintained. (Emphasis in original). Thus, it is quite clear that the ANPR does not deal in mere regulatory nuances, but rather, reflects a *fundamental shift* in regulatory philosophy. (Emphasis added).

The ANPR is devoid of any commentary on why a new criterion was needed, why this criterion was selected, what other criteria may have been considered and rejected, and what specific objectives regulation of breeders based on number of breeding females is designed to accomplish. Under the circumstances, the public is not unjustified in perceiving that the regulatory changes under consideration in the ANPR are politically motivated, and not actually necessary. . .

As a practical matter, licensing and regulation of persons who sell puppies at retail from their own residential property is wholly unnecessary. Buyers who purchase a dog from the person who bred and raised the animal on their own residential property *are dealing directly with the breeder*. The buyer can take the necessary steps to ascertain for himself or herself the facilities of the breeder and the condition of the breeder's dogs. (Emphasis in original). . .

If USDA elects to abandon the wholesale/retail distinction as the basis for regulating the sale of animals, AKC believes that the agency must still base its regulation on whether the seller is engaged in commercial or non-commercial activity. . .

On the other hand, non-commercial breeders, such as dog fanciers, do not breed for profit. Common sense tells us that persons who do not breed for profit do not pose the same degree of risk with respect to animal care as do breeders whose chief motive is profit. Indeed, most fanciers expect to lose money on their breeding activities, but do so anyway because of their love for the sport and the animals they raise. . .¹⁸

The AKC went further than a simple letter. It filed a Brief Amicus Curiae in Support of the USDA's Motion for Summary Judgment before the U.S. District Court in which the AKC argued to the court as follows:

To make breeding of dogs a federally licensed and regulated activity would *destroy the recreational and sporting nature of dog breeding*. Moreover, *most persons who raise puppies in their own homes could not possibly comply with the animal care requirements*, which were written for the commercial, high-volume breeders the Department currently regulates. Indeed, in most instances, these requirements would be cost-prohibitive, thus discouraging these types of breeders.¹⁹ (Emphasis added).

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¹⁸ Letter from Noreen Baxter, AKC Vice President for Public Education and Legislation, dated September 23, 1998 to the U.S. Department of Agriculture in opposition to the Petition of the Doris Day Animal League for rule-making.

¹⁹ Brief Amicus Curiae of American Kennel Club in Support of Defendants' Motion for Summary Judgment, pp. 3-4.

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AKCs Official Position Against Federal Regulation - Conclusion

The AKC has memorialized its long-standing position that the USDA should continue its current exemption from the AWA of residential hobby breeders who sell at retail. The AKC's position was made clear and seemingly unalterable: distinctions must be drawn between those dog sellers who are regulated and those who are unregulated based on qualitative factors, not quantitative factors. Whether the issue is numbers of breeding females in the home or on number of sales, nothing should be adopted that "reflects a fundamental shift in regulatory philosophy."²⁰

In fact, the AKC has long assisted the fancy in helping defeat breeder licensing restrictions anywhere that they were introduced in the state legislatures and county and city councils of the United States. As we will see, the AKC's position is about to change radically, as the AKC Board - for the first time in the history of the AKC - actually voted to support a breeder licensing bill as the official policy of the AKC. The camel's nose had rooted under the tent.

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²⁰ Letter from Noreen Baxter, AKC Vice President for Public Education and Legislation, dated September 23, 1998 to the U.S. Department of Agriculture in opposition to the Petition of the Doris Day Animal League for rule-making.

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PAWS

We come to the proposed legislation endorsed by the AKC. As we heard from Dr. Holt, the AKC met with groups like the Humane Society of the United States (HSUS) and DDAL mere days before PAWS was introduced. Yet the AKC refused to meet with the CFA, NAIA, PIJAC or other strong and steadfast allies at any time before PAWS' introduction.²¹ So, what does PAWS do?

The bill is difficult to read. It renumbers all of the existing subparagraphs in 7 USC §: 2132 - the AWA definition statute. Substantively, PAWS redefines "dealer as follows:"

(e) The term "dealer" means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of,

(1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet,

(2) any dog for hunting, security, or breeding purposes, or

(3) any dog imported from outside the United States, unless the dog is imported by the person for the use and enjoyment of the person, except that this term does not include-

(i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer, or which sells any dogs imported from outside the United States; or

(ii) any person who, during any calendar year-

(I) (aa) sells not more than 25 dogs or cats at wholesale or to the public; or

(bb) does not whelp more than 6 litters of dogs or cats and sells only dogs or cats bred or raised on the premises of the person directly at retail to persons who purchase such animals for their own use and enjoyment and not for resale; *and*

(II) derives not more than \$500 gross income from the sale of other animals;²² (Emphasis added).

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²¹ The reason for the lack of communication should be self-evident. Allied groups would have recognized the AKC's reversal of course as capitulation and abandonment.

²³ I am grateful for the hard and dedicated work done by Sharon Coleman and many others of the Animal Council for her allowing me to use this flowchart, as well as for the numerous resources and good counsel which she and they have provided me in order to prepare this paper.

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1. The \$500 Sales Exemption

To be exempt under PAWS, a hobby breeder must not, within a calendar year, either sell more than 25 dogs, or not whelp more than 6 litters and sell only dogs bred or raised on the premises to persons who do not resell the dog, *and* must not derive more than \$500 gross income from the sale of "other" animals.

There is a real question about what is meant by "other" animals. In its Petition for Rule-Making Change, DDAL took the position that hobby breeders are already exempt pursuant to the de minimus \$500 gross income exemption, which already had the "other animals" language:

these breeders are excluded from coverage under the Act by the specific exclusion of individuals who derive no more than \$500 gross income from the sale of *animals* each year. (Emphasis added).²⁴

If the DDAL's interpretation is correct, the maximum total sales that could be made - irrespective of whether fewer than 26 dogs or cats are sold or fewer than 7 litters are whelped - would be \$500.00. The word "other" would be rendered meaningless.

The alternative interpretation is that the "other animal" exception applies to any animals "other" than dogs or cats. According to this interpretation, if a person breeds dogs or cats as well as birds, and sells birds worth \$501.00 during any calendar year, he is a dealer no matter whether he did not sell more than 25 dogs or cats, nor whelp more than 6 litters and sold only dogs or cats raised on his premises.

There is real reason to fear that animal extremists will advance their interpretation of the \$500.00 "other animal" sales exemption. They advanced it before. They are not likely to refuse to do so again - particularly when so much is at stake. If USDA does not promulgate a regulation defining what "other" means, then it will be up to a court to determine the reasonableness of this interpretation. Like we saw in *DDAL v. Veneman*, an animal extremist organization can find a U.S. District Court judge sympathetic to their position. We should bear in mind that the USDA won at the Court of Appeals level only after DDAL won at the trial court level.

Even with an interpretation of the \$500.00 "other animal" sales exemption that excludes, for dog and cat breeders, the sales of animals in those species from the monetary limit, those people who sell a single exotic bird - whether or not they breed dogs and cats - are dealers under PAWS.

As we have seen, the AWA has been amended four times since 1966. PAWS erases the distinction between retail and wholesale - a "fundamental shift" in the words of the AKC. With such a "fundamental shift" occurring, how much easier will it be for a member of Congress, who may be sympathetic to animal extremists, to insert an amendment into the 350+ page Agriculture Appropriations Act of 2008 that would remove the word "other" from the \$500 "other animal" sales exemption? What members of Congress - much less what Presidential administration - would be willing to jeopardize to their constituents the passage of USDA Appropriations with all of the farm subsidies and perquisites, by voting against the passage of the bill simply because it removes the simple word "other" from a minor section of the bill? The camel has moved his whole head inside the tent.

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²⁴ DDAL petition for Rule-Making Change, 62 FR 14044-01, March 25, 1997.
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2. The 6 Litter Exemption

PAWS provides an exemption for a person who (a) does not whelp more than 6 litters of dogs or cats and (b) sells only dogs or cats bred or raised on the premises directly at retail to persons who purchase the animals for their own use and enjoyment and not for resale.

If a breeder whelps more than 6 litters a year, he does not get the breeder exemption. If he whelps fewer than 6 litters a year, but sells even a single dog or cat that was not bred or raised on his premises, he does not get the breeder exemption.

Serious questions are raised. The statements recently made by AKC officers and agents about this provision are deceptive and incomplete.

Ron Menaker made the following statement:

If you produce less than seven litters, you are not subject to regulation, even if you sell many more than 25 dogs. Similarly, if you sell fewer than 25 (sic) dogs, you can have in excess of six litters and not be covered.²⁵

As we can see, the 6 litter exemption applies to a person who whelps (not produces - whatever that term may mean) more than 6 litters *and* who sells *only* dogs or cats *bred or raised* on the premises directly at retail to persons who purchase for their own use and enjoyment and *not for resale*.

When the 6 litter exemption is analyzed, we start to see the difficulties attendant with fitting under it.

Example: Tom is a top Kerry Blue Terrier breeder. He has a top Kerry Blue Terrier stud dog, Trigger. Tom proudly watched Trigger go Best in Show at the National Specialty several years ago. Tom breeds four litters in 2006 after PAWS passes. He gets 6 puppies in the first three litters, and 7 puppies in the fourth. He sells them all, some on co-ownerships to show homes.

Trigger is much in demand as a stud dog. Trigger's stud fee is \$1,500.00. Tom and Trigger live in Westchester County, New York.

Tracy owns a wonderful Kerry Blue bitch, Transue. Tracy is a single woman who works for her local telephone company in Tacoma, Washington. Tracy can't afford to hire a handler for Transue, so she finished Transue herself, owner-handled, from the Open Bitch Class at 3 years of age. Tracy also has parakeets that she bred and raised before turning

her attention to dogs.

Tracy thinks Trigger is the perfect stud dog for Transue. Tracy, however, does not have \$1500, and cannot afford to ship Transue to New York. Tracy calls Tom and asks if she can breed to Trigger. Tom, who likes Transue very much (and who has a fondness for Tracy) consents. Tom will not charge Tracy a stud fee. Instead, he will take pick puppy back. Further, he agrees to ship frozen semen to Tracy's veterinary clinic in Tacoma.

Transue comes in season. Tom has Trigger collected. The semen is shipped to Tacoma. Transue is surgically implanted. When the litter is whelped, Tracy calls Tom and tells him that there is a marvelous bitch who everyone raves about. Since she no longer has the time to give to her birds, she sells them for \$600.00. When the litter is 14 weeks old, Tracy ships the pick bitch to Tom. Tom receives her, but sells her to his handler's sister who wants a bitch out of Trigger. Tom gets a co-ownership.

Tom and Tracy have both become dealers under PAWS and are subject to federal regulation. Tom breeds four litters in 2006. So far, so good. However, when Tom takes the puppy back and resells her, when she has neither been bred nor raised on his premises, he loses the breeder exemption. His sale of the pick puppy to his handler's sister is the 26th sale of the year. Tom must register for a federal animal dealer license.

Tracy only whelped one litter in 2006 - Transue's litter. The litter was not bred on her premises, because the surgical implant, which constitutes the breeding, occurred at her veterinarian's office. However, the puppy was raised at Tracy's house. So far, so good. Unfortunately, she sells the puppy bitch to Tom. It constitutes a sale, because the consideration for the transfer is the semen that Trigger produced. Tom did not purchase the bitch for his own use and enjoyment. He resold her. Tracy does not get the breeder exemption. Even if she did, Tracy sold her "other animals" for more than the \$500 exemption amount. Tracy must register for a federal animal dealer license.

The point has been raised by the German Shorthaired Pointer Club of America (among others) in its official opposition to PAWS that the breeder exemption is unavailable for people who breed on co-ownerships. To be under the breeder exemption, you must comply with two things: (1) whelp not more than 6 litters *and* (2) sell *only* dogs or cats *bred or raised* on the premises directly at retail to persons who purchase for their own use and enjoyment and *not for resale*. Since a co-owner, by definition, has not bred nor raised the litter on their premises, the breeder exemption is unavailable to them. The German Shorthaired Pointer Club of America is correct.

What is more, to be eligible for this exemption a person must regulate the conduct of the buyer. If the buyer does not purchase for their own use and enjoyment, the exemption is violated. Supposing the buyer immediately issues a co-ownership to someone else. Is the exemption violated?

It may be that a contract with a provision that prevents resale of the dog or cat would suffice to prevent the seller from losing the breeder exemption. On the other hand, it may not. There are other federal statutes that require buyers to hold property for two years after the transaction or the seller will incur substantial economic loss.²⁶ These questions will only be handled effectively by new USDA regulations. However, it was the fact that we were subject to the "choice" by the USDA to exempt hobby breeders that prompted Dr. Holt to argue that we should codify an exemption in the statute. Even were PAWS to pass, we would still be subject in large measure to the "choices" that USDA will make.

Once a person becomes subject to federal regulation as a dealer in a particular year, two questions are raised: (1) How does USDA learn that the person is subject to regulation, and (2) what happens in the next year? Does he start over at non-regulation, or does he continue to be regulated?

If the burden is upon the person who is subject to regulation to register, how is that to be enforced? This is more than a mere rhetorical exercise. If the USDA promulgates regulations under PAWS designed to ensure compliance, what is to ensure that they do not require pure-bred registration bodies to provide them with the litter registration statistics necessary to learn whether a given breeder has met the thresholds? Since both the 25 sales exemption and the breeder exemption statistics include both dogs and cats in the totals, would USDA not need registration statistics from multiple registries?

If, on the other hand, USDA does not request such information from registry bodies, how will USDA know if a particular person subject to regulation has registered? Might the USDA implement a regulation that *all* dog and cat sales must be reported to USDA, so that they will know when the threshold of 25 sales and 6 litters have been reached (although the breeder exemption is violated upon the first litter if the breeder sells a dog or a cat not bred or raised on his premises or to someone who re-sells the dog or cat, at least USDA will have some ability to catch many people who are subject to regulation).

Dr. Holt argues that AKC will be there to give input to USDA when any new PAWS regulations are being drafted, and "it is *likely* that our own standards will be a model the USDA will look to." If the AKC has so much authority with USDA, why is it that Dr. Holt argues that PAWS is necessary, in part, because of the USDA's whim that they have "chosen" to exempt us? Could not that influence be better exerted by keeping the retail/wholesale distinction in place? Suppose that the regulated hobby breeder is licensed in 2006. What happens on New Year's Day, 2007? Must he re-license? Suppose he does not meet the 6 litter threshold until September, 2007. Must he be subjected to inspections from January through August?

The camel has just passed his forequarters under the tent.

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²⁵ E-mail forwarded to me by several sources.

²⁶ 26 USC § 1031(f).

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The 25 Sales Exemption - The Death of Rescue

The 25 sales exemption comes into play in a number of instances. First, the toy breeds are likely to be unable to take advantage of the breeder exemption because of the 6 litter restriction. There is a threshold question about whether the 25 sales exemption will be interpreted by courts to be available to breeders at all, or if a court, at the urging of DDAL, HSUS, or PeTA, would interpret the two exemptions as applying to two different groups, with the sole exemption available to breeders being the 6 litter exemption, and the 25 sales exemption reserved only for non-breeders. In other words, could a trial court, selected by a plaintiff animal rights organization, rule that the breeder exemption is the only exemption available for breeders, and should there be a complete failure of a breeder to meet the terms of that exemption, that the breeder becomes regulated? Does the word "or" between the two exemptions lead to an interpretation that the two exemptions, rather than being alternatives available to the same classes of people, are two different alternatives available to two different classes of people - breeders on the one hand, and non-breeders on the other?

The question is rhetorical. No effective response to the question may be made by AKC, HSUS, PeTA, or the other advocates of PAWS. I suspect, however, that HSUS and PeTA would honestly answer: "Yes, a trial court could do that, and we want it to do so," while the AKC would attempt to assuage the fancy by answering: "No, that is neither what the statute means nor what it was intended to do." Unfortunately for AKC, statutes are construed by courts, not by advocates for legislation who come under fire from the people they are purporting to represent.

Assuming that the 25 sales limit applies to breeders who are unable to make the breeder exemption, the question remains: what happens to rescue organizations? These are the blessed among us who, like St. Francis of Assisi, give of themselves out of devotion, human caring, sympathy and compassion. What happens to them under PAWS?

According to Dr. Holt, nothing happens to rescue. PAWS does not affect rescue organizations, according to him, because rescue organizations do not operate at a profit.

The following question was asked of Dr. Holt who gave the following response:

Q: Will rescue organizations and shelters which charge an adoption fee for placing puppies be regulated under the PAWS?

Dr. Holt: . . . The USDA does not now regulate non-profit entities such as shelters when they otherwise would qualify as a dealer, and there is no reason to believe they would do so with the enactment of PAWS. On the other hand, organizations that profit from the sale of dogs will be regulated, even if they call themselves a rescue operation or shelter.²⁷

Dr. Holt, as I understand it, is not a lawyer. He should not be doling out legal opinions. The statement above is false. The AWA defines person and commerce as follows in 7 USC § 2132:

(a) The term "person" includes any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity;. . .

(c) The term "commerce" means trade, traffic, transportation, or other commerce--

(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia;

(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1).

PAWS provides:

The term "dealer" means *any person* who, *in commerce, for compensation or profit* delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of,

(1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet. . . (Emphasis added).

It is therefore a false statement to assert that rescue organizations will not be covered if PAWS is adopted. Rescuers are not covered now because the AWA *only regulates wholesale sales*. Since PAWS abolishes the retail/wholesale distinction, the fancy cannot rely on the historical record, as Dr. Holt suggests, that "there is no reason to believe" that USDA would regulate rescuers. If rescuers are "persons" under 7 USC § 2132, and they contract to provide another person with a dog or cat in exchange for consideration - even if the price is below a market price or is inadequate to cause profitability - they have received compensation for the sale of a dog or cat. They are therefore dealers under PAWS, unless exempt.

Any rescue person or organization, therefore, must shut down after the 25th rescue in a given year - or not receive compensation for their costs associated with rescuing the dog or cat from the local shelter, having it micro-chipped and spayed or neutered, advancing veterinary costs and so forth.

That is - unless we are relying on the "choice" of the USDA to somehow define rescuers out of the coverage of PAWS. To rely on that would require rescuers to be subject to the very danger that Dr. Holt expressed was the reason for AKC's backing of PAWS in the first instance.

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²⁷ PAWS Q & A by Jim Holt, e-mail correspondence of early July, 2005.

The American Kennel Club and the Pet Animal Welfare Statute of 2005: Whence Comes the Reversal of Course?

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The Four Percent Solution

In attempting to make its case to the fancy, who the AKC Board cut out of the process prior to endorsing PAWS, the AKC through Dr. Holt has made the argument that:

. . . this definition covers fewer than 4 percent of all breeders who register litters with the AKC.²⁸

The AKC has no way of determining from its registration statistics how many breeders who registered puppy litters also have bred cat litters. Cat litter registration statistics are not kept by the AKC. Since both the 25 sales exemption and the breeder exemption include the total cat and dog sales/litters of each person, AKC did not take into consideration dog and cat breeders when calculating the 4 percent figure.²⁹

The AKC has no way of determining from its registration statistics how many breeders who register puppy litters of AKC-recognized breeds also have non AKC-recognized breeds registered with other registry organizations.³⁰ The United Kennel Club (UKC) recognizes over 300 breeds with 250,000 registrations annually.³¹ It is suspected that AKC did not cross-check its database with that of UKC.

The 4 percent figure expounded by the AKC therefore is fatally flawed. It carries no credibility. It has no meaning. Moreover the question remains: What was the threshold number of dog fanciers that AKC determined they would sacrifice by endorsing PAWS? Would AKC have supported PAWS if it affected 5 percent of breeders? Is the figure 10 percent? 15? 25?

Put another way, what is the number of hobby breeders and rescuers who AKC thinks is unworthy of its protection? At what point has AKC violated its mission to protect its "principal constituency?"

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²⁸ Ibid.

²⁹ Which is not surprising, since AKC did not take into account cat fanciers at all before worshipping at the altar of PAWS.

³⁰ AS Bill Fawcett has put it: "Are those irresponsible breeders worthy of over-regulation? Tell that to the Boykin Spaniel fancier! . . . Obviously, no breeders registered with FDSB, UKC, or other canine registries were considered."

³¹ United Kennel Club website.

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The Internet Sales Rationale

Dr. Holt advanced the argument that PAWS is necessary to prevent the proliferation of internet sales of dogs and cats. Therefore, he concludes, "the law must change. . ."

Perhaps if AKC wishes to make an impact in reducing the proliferation of internet sales - which it finds to be a problem, although there is no explanation as to why that is, *a priori*, wrong - perhaps it should look at cleaning its own house first. One Doberman fancier learned that the AKC actually allows advertising of internet sales of puppies on the AKC website. She sent to me the following e-mail about her discovery from her search:

Well, my curiosity got the best of me so I looked up Doberman litters. 42 Doberman litters are listed throughout the country at \$30.00 a listing for 60 days. In the ENTIRE COUNTRY not ONE litter had either a Ch. Sire or Dam or one that had any title on the other end! 2 breeders are listed as DPCA [Doberman Pinscher Club of America - ed.] members. A third is listed as a member of an all-breed club, but he does not say which one. 39 have no affiliation and do not participate in any type of AKC events according to their own reporting. Most of them will ONLY provide AKC papers - no bill of sale, health testing, taking the pup back, etc. Now I am wondering if the AKC is contributing to the problem they claim needs to be resolved!!! Just my observation.³²

There is nothing that PAWS can do to prevent internet sales. In fact, internet sales are not even mentioned in the bill. It is rather curious that this rationale is advanced by Dr. Holt when the bill does not address the concern at all. Any attempt to regulate internet sales is doomed to failure. The strength of the internet is that it allows commerce to be conducted globally. If PAWS is adopted and a large, commercial facility selling at retail - the targets of the bill according

to AKC (although not to HSUS) - were to choose between regulation under the act and moving across the U.S. border, does anyone think that they would not simply move outside of the jurisdiction of the United States? They could then take internet orders with impunity from any U.S. sanction or inspection of their facilities.

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³² E-mail of Elaine Werner to the author, July 8, 2005.

Effect of PAWS on Home Businesses

The current USDA regulations that apply to dealers include the following:

9 CFR § 3.1 Housing facilities, general.

(b) . . .Housing facilities [for dogs and cats, ed.] . . . must be physically separated from any other business. If a housing facility is located on the same premises as another business, it must be physically separated from the other business so that animals the size of dogs, skunks, and raccoons are prevented from entering it.

Since we do not know what new regulations, if any, USDA might promulgate upon the adoption of PAWS, we must analyze the current regulations in order to deduce the potential effect of the bill on hobby breeders and rescuers. Therefore, should any hobby breeder subject to federal regulation have a home-occupancy business, he must physically separate the "other business" from the housing facilities for his dogs. If the dogs and the "other business" occupy the same house, it remains to be seen whether the "physical separation" can include a baby gate, or whether a more permanent barrier - or complete structure - will need to be built.

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Effect of PAWS on Compliance with Local Zoning Ordinances

One of the least-discussed potential negative impacts upon hobby breeders is the effect that adoption of PAWS will have on state, county and local legislative bodies in adoption of breeder restrictions, and the effect it will have on those administrative agencies who enforce local zoning laws.

AKC's own position statement about breeding restriction - taken from their website July 24, 2005 - is as follows:

The American Kennel Club opposes the concept of breeding permits, breeding bans or mandatory spay/neuter of purebred dogs. Instead, we support reasonable and enforceable laws that protect the welfare and health of purebred dogs and do not restrict the rights of breeders and owners who take their responsibilities seriously.

This position cannot be squared with the AKC's position on PAWS. What is PAWS if it is not the mother of all breeding restrictions? Local and state legislators will immediately pick up on this point to our detriment. Certainly animal extremists have, as a spokesperson for HSUS has called PAWS "the first step."³³

As state and local legislators, many of whom are sympathetic to extremists, introduce restrictions that may, in fact, regulate breeders within their jurisdiction, the AKC's position on PAWS makes it nearly impossible to argue in favor of a commercial/household retail restriction, much less a retail/wholesale distinction. What we can expect to be left with is a patchwork quilt of breeding restrictions throughout the country, some of which are destined to be more restrictive than PAWS. PAWS will likely be viewed by the vanguard of the animal extremist movement as the lynchpin in their efforts to regulate hobby breeders out of existence, as PAWS takes away all effective arguments against local control of breeding that we currently have.

What is more, county and local zoning agencies may view that hobby breeders subject to USDA licensing are contemporaneously deemed to be businesses under local zoning regulations, which may and probably do contain restrictions on home-occupancy businesses, if not outright bans. Thus, the effect of PAWS may be a tsunami of new restrictions and enforcement of existing zoning laws unfavorable to hobby breeders throughout the United States.

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³³ United Kennel Club website, quoting unidentified HSUS spokesperson.

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The Macro-Economic Effect of PAWS on Dog and Cat Suppliers

One is left with the inevitable question: what makes AKC think that Congress will leave PAWS alone? Congress has amended the AWA four times since its initial adoption, while the USDA, in sharp contrast, has kept hobby breeders' exemption in place untouched for 35 years.

AKC does not answer this question. When asked about the potential for future regulatory expansion - such as reducing the sales exemption from 25 animals to 20, or the breeder exemption from 6 litters to 4, or removing the word "other" from the \$500 "other animal" sales cap, their stock response is that they support PAWS in its current form. In other words, AKC cannot answer the question because there is only one answer, and it leads to the inevitable conclusion that PAWS is an inherent danger to all hobby breeders. The answer is: further expansion of PAWS is not only likely, it is historically predicted.

What happens, then, as the percentage of hobby breeders subject to regulation grows and grows over the next decade? PAWS certainly cannot be argued to effect the demand for dogs and cats in the United States. That demand is likely to

continue apace. What, then, is PAWS likely to do on the supply side?

Hobby breeders know that to breed dogs and cats responsibly, to improve the breed and one's breeding stock, means to forego making breeding and sales decisions that are driven by increasing marginal profitability on the sales of animals. This factor is why people are willing to pay higher prices for animals bred by reputable hobby breeders, rather than to purchase from commercial retail stores or through disreputable "backyard" breeders. Even at the higher prices received upon the sale of an animal by reputable hobby breeders, few if any report that they make any profit from a litter. The cost of goods sold is prohibitive to obtaining positive net operating income if breeding is done correctly.

As greater regulations are piled onto hobby breeders who breed in their homes under PAWS and because of PAWS, and as greater numbers of hobby breeders are subject to regulation through amendment of the AWA and of state and local regulations that are adopted given the green light that PAWS affords, the effect on financial and privacy concerns will cause large numbers of current hobby breeders to scale back and eventually stop breeding altogether.

This effect on American hobby breeders will be exacerbated by the opposite effect that PAWS and its progeny will have on breeders in Mexico and Caribbean countries, and commercial establishments in the United States that have the financial resources and incentive to circumvent the AWA after PAWS. Taking advantage of the deleterious effect that PAWS will have on legitimate hobby breeders in this country, these off-shore and out-sourced suppliers of dogs and cats will be able to supply the needs of the American consumer by sales over the internet - the purported rationale advanced by Dr. Holt for AKC's support of PAWS in the first place. Yet these breeding operations - which already exist and have been found to be operating at supplying dogs and cats through some venues in the U.S. already - are beyond the jurisdiction of the USDA to inspect their facilities in order to promote animal welfare. The AWA was passed just for that purpose - to protect the welfare of animals in large, wholesale facilities. As the USDA demonstrated already in response to the DDAL's Petition for Rule-Making Change, discussed earlier, retail sellers of dogs and cats do not need federal regulation because they are self-regulating. Buyers can inspect how dogs and cats are raised by hobby breeders.

Not so after PAWS. As the supply of dogs and cats shifts to Mexico and the Caribbean, retail buyers will make their choices over the internet, having no idea how their eagerly-awaited puppy or kitten has been raised. The damaging effect that this will have on animal welfare and on rescuers who will have a tremendous time placing dogs and cats of poor temperaments is impossible to underestimate.

PAWS therefore has the potential to radically alter, in the medium and long-term, the macro-economic markets for dog and cat sales in the United States in a manner that will negatively effect the welfare of the animals that are present in this country. As that happens, the ripple effect on rescuers, and on the adoption of further governmental restrictions at ownership of animals can be expected to broaden.

~ ~ ~

An Alternative Approach

Dr. Holt has argued that "the law must change. . ." He stated that Senator Santorum said that "he was going to limit" the number of dogs that could be bred in this country.

The first comment reveals a near affection for the position taken by those who would regulate AKC's self-professed "principal constituency. . .the purebred dog fancy." The language is striking in that it pre-supposes that the retail/wholesale distinction *should* be abandoned, rather than the possibility that it *might* be abandoned.

As to the point about Senator Santorum, when last I checked there were 100 United States Senators, each of whom receive exactly one vote. There are 435 members of the House of Representatives, each of whom also receive exactly one vote. The legislative process is a process of compromise. Why, then, did AKC compromise the fancy *before* the legislative process even started?

The alternative approach - *if one is to be used at all* - that should be advocated by every hobby breeder and rescuer in the United States is to request of one's own member of Congress to codify the current definition of retail pet store in 7 USC § 2132 so that it is no longer simply a matter of USDA "choice" as Dr. Holt would say.

The definition of retail pet store would be as follows:

Retail pet store means *any outlet, including but not limited to residential dwellings* where only the following animals are sold or offered for sale, at retail, for use as pets: Dogs, cats, rabbits, guinea pigs, hamsters, gerbils, rats, mice, gophers, chinchilla, domestic ferrets, domestic farm animals, birds, and coldblooded species. Such definition excludes- (Emphasis added).

- (1) Establishments or persons exhibiting, selling, or offering to exhibit or sell any wild or exotic or other nonpet species of warmblooded animals (except birds), such as skunks, raccoons, nonhuman primates, squirrels, ocelots, foxes, coyotes, etc.;
- (2) Any establishment or person selling warmblooded animals (except birds, and laboratory rats and mice) for research or exhibition purposes; and

(3) Any establishment wholesaling any animals (except birds, rats and mice).

(4) Any establishment exhibiting pet animals in a room that is separate from or adjacent to the retail pet store, or in an outside area, or anywhere off the retail pet store premises.

The definition set forth above is a rational approach to the purported reasoning behind AKC's 180 degree course correction - their alleged fear of the USDA. If that is the motivation, and since it is always folly to compromise with one's opponent before the negotiating process has even begun, the suggestion that I make is the most sensible one to ensure that hobby breeders' interests are protected and advanced vis-a-vis the interests of animal extremist organizations during the legislative process.

The position taken by the AKC is purely capitulation. The AKC has advocated a Neville Chamberlain inspired strategy of appeasing the wolf that is at the door, a strategy that has dire consequences for all involved - except the wolf.

~ ~ ~

Whence Comes the Reversal of Course?

Whence comes the reversal of course? Can the AKC's abandonment of its long-held position against any "fundamental shift" in emphasis on qualitative criteria for regulation under the AWA be explained by the public statements of the AKC and its public relations machine?

I submit that it cannot. Sadly, we are left to speculate and conjecture about the reasoning behind the reversal of course. We are now sailing without the benefit of that large flagship under whose protective guns we have steamed alongside until now. Yet, we are not alone. The dog and cat fancies are still afloat. We have the capability and firepower to show the flag where we must now go.

That distant country - the halls of Congress - has ports of call that are friendly, as well as some that are not. It is for we who are left in the fleet to steer a course ourselves now to achieve our goal of protecting and serving the animals and people who we love.³⁴

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³⁴ I am indebted to many who assisted in the preparation of this piece. Included among them are Dante DeAngelis, Maggie Cecil, Teri Cannon, and others too numerous to name.

The Dog Federation of Wisconsin recommends the following web sites for information regarding animal legislation:

www.dfow.org
www.saova.org
www.mofed.org
www.cfa.org
www.ncraoa.com
www.pet-law.com

Donations appreciated!

If you would like to donate funds to help pay for the cost of printing our legislative materials, please make checks payable to DFOW and send to:

DFOW
c/o: Wendy Biewer, Treasurer
W825 Froelich Road
Sullivan, WI 53178

Animal Advocacy Organizations Opposing S1139/HR2669 (PAWS)

As of 7/28/05 - from the SAOVA.org web site.

National Groups

Pet Industry Joint Advisory Council
Sportsmen's and Animal Owners' Voting Alliance
Cat Fanciers' Association
The Animal Council
National Animal Interest Alliance
United Kennel Club
Master of Fox Hounds Association
The International Cat Association
The International Bengal Cat Society
U.S. Sportsmen's Alliance
National Birman Fanciers (CFA)
White Shetland Sheepdog Association
Ocicats International
The Devon Rex Breed Club
The Rabbit Education Society
On-Line Feline Fanciers
National Pet Alliance
The Polish Tatra Sheepdog Club of America

AKC Parent Breed Clubs

American Brittany Club
American Shetland Sheepdog Association
American Chesapeake Club
German Shorthaired Pointer Club of America
American Pomeranian Club
Papillon Club of America
Dachshund Club of America
Pug Dog Club of America
English Springer Spaniel Field Trial Association
Yorkshire Terrier Club of America
Chinese Shar-Pei Club of America
American Spaniel Club
American Boxer Club

Statewide Organizations

Virginia Hunting Dog Owners' Association
Dog Federation of Wisconsin
California Federation of Dog Clubs
Missouri Federation of Animal Owners
Responsible Pet Owners Alliance (Texas)
North Carolina Responsible Animal Owners' Alliance
North Carolina Coon Hunters Association
North Carolina Sporting Dogs Association
North Carolina Bear Hunters Association
Federation of Maine Dog Clubs
Virginia Bear Hunters Association
Responsible Animal Owners of Tennessee
PUFF (Pfanciers United For Fun, Inc.) (Midwest)
North Carolina Field Trial Association

CT Dogs (CT)
Massachusetts Federation of Dog Clubs
Amateur Field Trial Clubs of America - Region 12 (AZ & NM)
Amateur Field Trial Clubs of America - Region 7 (TX)
Nebraska Brittany Club
Prairie State Cat Club (IL, IN & MI)
Field Trial Clubs of Illinois
Hoosier State Chinese Shar-Pei Club (IN)
Montana State Houndsmen Association
Illinois Regional Brittany Club
Illinois Brittany Championship Association

Local Organizations

Carolina Kennel Club, Inc. (NC)
Alliance of Responsible Pet Owners of N.E. Florida
Greater Clark County Kennel Club (WA)
Schooley's Mountain Kennel Club (NJ)
Ladies' Dog Club, Inc. (MA)
Jacksonville NC Kennel Club
Central Carolina Dachshund Club (NC)
Greater Orange Park Dog Club, Inc (FL)
Clermont County Kennel Club (OH)
Piedmont Kennel Club (NC)
The Dalmatian Club of the Piedmont (NC)
Springfield Kennel Club (MA)
Burlington Cat Fanciers (NC)
Tropical Cats Inc. (FL)
Western Clinton Sportsmen's Association (PA)
New Brunswick Kennel Club (NJ)
North Shore Kennel Club (MA)
Thunderkatz, Inc. (OK)
Wachusett Kennel Club (MA)
St. Croix Valley Brittany Club (MN)
Fanciers Cocker Spaniel Club of Southern WI
Susquehanna Brittany Club (PA)
Salisbury Kennel Club (NC)
LNC Pet Supply (CA)
Memphis International Cat Enthusiasts (TN)
East of Eden Cat Fanciers (CA)
Colonial Shetland Sheepdog Club (MA)
Western Massachusetts Shetland Sheepdog Club
Greater Fort Myers Dog Club (FL)
Capitol City Cocker Club (DC)
Sunshine Dachshund Club of Jacksonville (FL)
Absolutely Abyssinians Cat Club (FL)
Sawnee Mountain Kennel Club (GA)
Eugene Kennel Club (OR)
Salt Lake Doberman Pinscher Club (UT)
Cochise Bird Dog Club (AZ)
Blue Ridge P.E.T.S.(Pets in Education and

Therapy Service) (VA)
German Shorthaired Pointer Club of Central Virginia
Sacramento Bird Dog Club (CA)
Triangle Shetland Sheepdog Club of North Carolina
Harmony Bay Chinese Shar-Pei Club (WA)
Sussex Hills Kennel Club (NJ)
Ohio Valley Dog Owners, Inc.
Hudson Valley Brittany Club (NY)
Garden State Siberian Husky Club (NJ)
Burlington Obedience Training Club, Inc. (VT)
Raritan River Akita Club (NJ)
Kittyhawk Felines, Inc. (OH)
Centennial Chinese Shar-Pei Club (CO)
Shenandoah Valley Kennel Club (VA)
Walkfar Coonhunter's Coon Club (NC)
Rocky Mountain Mastiff Fanciers (CO)
ILLOWA Chinese Shar-Pei Club (IL & IA)
Shasta Kennel Club (OR)
Golden Retriever Club of Western New York
Shetland Sheepdog Club of Greater Detroit (MI)
German Shepherd Dog Club of Greater Kansas City
Clackamas Kennel Club (OR)

Rescues

Turkish Van Breed Rescue
Lhasa Apso Southern Rescue, Inc. (MS)
Great Dane Rescue of Northeast Florida
Jacksonville Sheltie Rescue (FL)
North American Shar-Pei Rescue
Pug Rescue of North Carolina, Inc.
Wisconsin Cocker Rescue
Birman Breed Rescue
New England Sheltie Rescue
Devon Rex Rescue League, Inc.
Animal Safe Haven Foundation (CA)
Bay Area Boxer Rescue (CA)
Dalmatian Rescue of Southwest Virginia
CFA Purebred Rescue, Inc.
KitnHevn Rescue, Inc. (FL & OH)
Halfpint Haven Borzoi and Greyhound Rescue, Inc. (FL)
Louisiana Brittany Rescue
Golden Retriever Rescue of Mid-Florida
Bulldog Club of America Rescue Network
Miss Kitty's Cat House (AZ)
Helping Persian Cats, Inc. (CA)
American Brittany Rescue (NJ)
Selkirk Rex Breed Rescue (CA)
Oregon Basset Hound Rescue
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