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**REPORT ON LEGISLATION BY THE  
ANIMAL LAW COMMITTEE**

**H.R. 847  
S. 395**

**Rep. Gerlach  
Sen. Durbin**

AN ACT to amend the Animal Welfare Act concerning the humane care standards, licensing and inspection of dogs.

**Puppy Uniform Protection and Safety Act**

**THIS LEGISLATION IS APPROVED WITH RECOMMENDATIONS**

**SUMMARY OF THE PROPOSED LEGISLATION**

The proposed legislation would amend the Animal Welfare Act (AWA) to expand the definition of the term “dealer” to include “high volume retail breeder[s]”, to improve exercise standards for animals maintained by dealers, and add new licensing provisions with respect to dealers.

**Amendments Concerning the Expansion of the Definition of “Dealer”**

The proposed legislation would amend Section 2 of the AWA (7 U.S.C. 2132) to expand the definition of the term “dealer” to include “high volume retail breeder[s]”, defined to include “a person, who in commerce, for compensation or profit” has both “an ownership interest in or custody of 1 or more breeding female dogs<sup>1</sup>” and “sells or offers for sale, via any means of conveyance (including the Internet, telephone, or newspaper), more than 50 of the offspring of such breeding female dogs for use as pets in any 1-year period.”

**Amendments to Improve Exercise Standards**

The proposed legislation would amend section 13 of the AWA (7 U.S.C. 2143) to improve exercise standards for dogs maintained by dealers. Specifically, the proposed legislation would require that “each dog that is at least 12 weeks old (other than a female dog with unweaned puppies) has daily access to exercise” and that such exercise would allow the dog “to move sufficiently to develop or maintain normal muscle tone and mass as appropriate for the

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<sup>1</sup> The amendment would provide that a “breeding female dog” is “an intact female dog aged 4 months or older.”

age, breed sex, and reproductive status of the dog” and “the ability to achieve a running stride.” Additionally, the exercise cannot be a forced activity, repetitive, restrictive of other activities, solitary or goal oriented.

The proposed legislation would further require that the provided area for exercise is separate from the primary enclosure “if the primary enclosure does not provide sufficient space to achieve a running stride.” The flooring of the exercise area must be sufficient to allow for the aforementioned activities, and must be solid; or, if nonsolid, then the flooring must be non-wire flooring that is safe for the particular breed size, and age of the dog and that is free from protruding sharp edges and is designed so that the paw of the dog is unable to extend through or become caught in the flooring.

The proposed legislation would require that the exercise area be “cleaned at least once each day; be free of infestation by pests or vermin; and is designed in a manner to prevent escape of the dogs.”

The proposed legislation would provide for an exemption of exercise for a dog if a licensed veterinarian determines that dog’s health, condition or well-being would require such. This determination must be documented by the veterinarian; subject to review and approval by the Secretary; and unless the basis for the determination is a permanent condition, must be reviewed and updated at least once every 30 days by the veterinarian. Additionally, the dealer shall maintain reports of the veterinarian determinations concerning exercise exemptions.

### Amendments Concerning Licensing

The proposed legislation would amend section 3 of the AWA (7 U.S.C. 2133) concerning the licensing requirements of dealers applying for a license (including annual renewals) to require that dealers must include on the license application “the total number of dogs exempted from exercise on the premises of the dealer in the preceding year by a licensed veterinarian.”

## **JUSTIFICATION**

### Inhumane Conditions of Puppy Mills

Dogs at commercial breeding facilities, also known as “puppy mills,” are often kept 24-hours a day in small outdoor cages (often stacked) open to the elements with wire floors so that urine and feces drop from the cage. This housing is detrimental to the dogs’ health and many have serious foot and other health problems because of the wire flooring. Dogs get little to no exercise or socialization; many never leaving their cages for their entire lives. Female dogs are constantly bred until the point of exhaustion. When, after a few years, they are physically depleted to the point that they no longer can reproduce, breeding females are often killed. Many adult dogs, as well as puppies, die in puppy mills from substandard care and lack of adequate veterinary care. Dogs are not provided basic grooming such that their nails commonly curl to the

point of deformity and their fur becomes matted and filthy. Humane euthanasia is rarely practiced.<sup>2</sup>

Like all social animals, dogs require sufficient mental stimulation for their psychological well-being. Without access to daily exercise, the physical and mental health of dogs severely deteriorates. The physical effects on dogs of extreme exercise deprivation include weaker immune systems, obesity, heart problems, muscle atrophy, skin conditions, respiratory problems and illnesses; these effects often result in shorter lifespan.<sup>3</sup> Extreme exercise deprivation affects psychological well-being, such as by causing hyperactivity, irritability, aggression, destructiveness, excess barking, and even biting.<sup>4</sup> Lack of exercise can also result in the dogs turning “cage crazy,” which can manifest in different ways: dogs may turn aggressive and violent towards their cage-mates, or circle frantically and pace.<sup>5</sup> Additionally, dogs in puppy

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<sup>2</sup> See USDA Office of Inspector General Audit Report 33002-4-SF, “Animal and Plant Health Inspection Service Animal Care Program, Inspection of Problematic Dealers, May 2010, available at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf> (last visited Mar. 21, 2013) (citing various cases of repeat violations of the AWA by large-scale dogs breeders and brokers throughout the United States “demonstrat[ing] the agency’s leniency toward violators, the ineffectiveness of its enforcement process, and the harmful effect they had on the animals,” including cases in which there was “lack of adequate veterinary care for three dogs with hair loss over their entire bodies and raw, irritated spots on their skin,” a dog with bite wounds “left untreated for at least 7 days, which resulted in the flesh around the wound rotting away to the bone;” “numerous dogs infested with ticks” including one case in which “the ticks completely covered the dog’s body;” citing a case in which “large amounts of feces and urine was pooled under the kennels producing an overpowering odor;” as well as a case in which an inspector “found five dead dogs and other starving dogs that had resorted to cannibalism.” See also “USDA Inspection Report Quotes: Examples of Severe Violations,” Humane Society of the United States, available at [http://www.humanesociety.org/assets/pdfs/pets/puppy\\_mills/usda\\_severe\\_violations\\_pm.pdf](http://www.humanesociety.org/assets/pdfs/pets/puppy_mills/usda_severe_violations_pm.pdf) (last visited May 31, 2013) (quoting USDA inspection of Kimberly Alexander, 71-A-1284, Gamaliel, Ark., Sept. 15, 2010: euthanasia of dogs was performed by breeder who “would ‘bend the head a certain way and the neck would break.”; quoting USDA inspection of Jason Hoover/Jay Dar Pugs, 21-A-0104, Clyde, N.Y., Sept. 28, 2010: “The records indicate that over the summer 6 female dogs died a few days to week after whelping puppies. The licensee never contacted the attending veterinarian to get guidance on the situation or determine a possible diagnosis why the dogs died.”); “Puppy Mill FAQ,” ASPCA, available at <http://www.aspc.org/Fight-Animal-Cruelty/puppy-mills/puppy-mill-faq> (last visited May 31, 2013); “Puppy Mills: Frequently Asked Questions,” Humane Society of the United States, Aug. 12, 2013, available at [http://www.humanesociety.org/issues/puppy\\_mills/qa/puppy\\_mill\\_FAQs.html#definition](http://www.humanesociety.org/issues/puppy_mills/qa/puppy_mill_FAQs.html#definition) (last visited May 31, 2013).

<sup>3</sup> See “Dog Exercise Needs,” Dog Time, July 13, 2011, available at <http://dogtime.com/exercise-needs.html> (last visited May 30, 2013); “The Benefits of Dog Exercise,” VetInfo, available at <http://www.vetinfo.com/benefits-dog-exercise.html#b> (last visited May 30, 2013);

<sup>4</sup> See “Exercise for Dogs,” ASPCA, available at <http://www.aspc.org/Pet-care/virtual-pet-behaviorist/dog-articles/exercise-for-dogs> (last visited May 30, 2013); “The Importance of Exercise for Your Dog: Exercise Can Affect Physical Health, Mental Health, Behavior, Aggression, and Trainability,” June 8, 2010, available at <http://voices.yahoo.com/the-importance-exercise-dog-exercise-can-6166548.html> (last visited May 30, 2013); “The Importance of Exercising Your Dog,” Dog Training Central, available at <http://www.dog-obedience-training-review.com/exercising-your-dog.html> (last visited May 30, 2013).

<sup>5</sup> “The Shame of Puppy Mills,” Encyclopædia Britannica Advocacy for Animals, August 27, 2007, available at <http://advocacy.britannica.com/blog/advocacy/2007/08/the-shame-of-puppy-mills/> (last visited May 30, 2013).

mills may be plagued by behavioral problems that may appear later in life after being sold to consumers.

### Inadequacy of Animal Welfare Act

Although existing federal law provides some minimum standards of care for dogs maintained by dealers, these standards are lacking in a number of respects. Significantly, there is a loophole in the current definition of “dealer,” which only encompasses those breeders who sell directly to stores or brokers.<sup>6</sup> As a result, breeders and other vendors who sell dogs directly to the public, including those who sell animals via the Internet, telephone or newspaper ads, are exempt from the humane care, licensing and inspection provisions of the AWA.<sup>7</sup> Animals maintained and sold through such means are no less deserving of basic standards of care than those animals sold to stores or brokers. If anything, there is a greater need to institute humane care standards for breeders selling via the internet, telephone or newspaper because these facilities are often hidden from public scrutiny.<sup>8</sup>

Next, many of the minimum care standards of the AWA contain very general language which, as demonstrated by a number of investigations of puppy mills and other commercial breeders by the USDA and other organizations, is insufficient to ensure the provision of humane

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<sup>6</sup> “In April 2009, APHIS publicly acknowledged that not requiring Internet breeders to be licensed and inspected is ‘a massive loophole.’” The USDA has further recognized that “for Internet breeders, there is no degree of self-regulation and oversight because consumers do not have access to their facilities. Without consumer oversight or APHIS inspections, there is no assurance that the animals are monitored for their overall health and humane treatment.” USDA, Office of Inspector General, Animal Health Inspection Service Animal Care Program, *Inspections of Problematic Dealers*, Audit Report 33002-4-SF, at 36-37 (May, 2010) available at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf> (last visited May 6, 2013).

<sup>7</sup> According to the American Pet Products Association, at least 150,000 dogs have been purchased online annually in the United States since 2006. Greg Hunter, Pia Malbran, *Sick Puppies Dog Some Online Purchasers*, CNN.COM, May 13, 2006, available at <http://edition.cnn.com/2006/US/05/11/online.puppies/index.html> (last visited May 6, 2013); see also USDA, Office of Inspector General, Animal Health Inspection Service Animal Care Program, *Inspections of Problematic Dealers*, Audit Report 33002-4-SF, at 37 (May, 2010) available at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf> (last visited May 6, 2013) (noting that “one Internet breeder we visited in Iowa had over 140 breeding dogs and generated sales of \$160,000 in 2007.”); How Much Is That Doggie On My Browser: The Truth Behind Online Puppy Sales, International Fund for Animal Welfare, available at <http://www.ifaw.org/sites/default/files/ifaw-report-how-much-is-that-doggie-on-my-browser.pdf> (last visited May 6, 2013) (noting that in a July 2012 investigation, the International Fund for Animal Welfare identified that in just one day, on nine websites, well over 733,000 puppies were advertised for sale); *Today Show Airs HSUS Investigation into Huge Internet Puppy Broker*, Humane Society of the United States, available at [http://www.humanesociety.org/news/press\\_releases/2011/12/purebred\\_breeders\\_120711.html](http://www.humanesociety.org/news/press_releases/2011/12/purebred_breeders_120711.html) (last visited May 6, 2013) (noting that one of the largest online puppy retailers owns nearly 800 web domains).

<sup>8</sup> Pets purchased via the internet are commonly shipped directly to consumers by the breeder. Thus, consumers rarely have the opportunity to visit the breeder’s facilities to inspect the conditions in which the animals are kept. See “Consumer Scam: Internet Pet Sales,” The Humane Society of the United States, Mar. 9, 2010, available at [http://www.humanesociety.org/animals/resources/facts/internet\\_pet\\_scams.html](http://www.humanesociety.org/animals/resources/facts/internet_pet_scams.html) (last visited May 31, 2013).

care to animals maintained by dealers.<sup>9</sup> For example, with respect to exercise, the implementing regulations of the AWA merely provide that “[d]ealers, exhibitors, and research facilities must develop, document and follow an appropriate plan to provide dogs with the opportunity for exercise,” however, the regulations do not specify the size, structure, frequency or any other details concerning the provision of exercise. *See* 9 C.F.R. § 3.8 By providing some basic minimum standards regarding the provision of exercise, including specification for daily exercise, size and structure of exercise area and the maintenance of relevant veterinary records where an exercise exemption is implemented, the proposed legislation would be a first step toward improving the living conditions for these animals.

### Impact on Consumers

Under existing law, retail pet stores and direct sale breeders who sell via the internet, television and newspaper are not subject to the requirements of the AWA. As a result, unsuspecting consumers may be duped into believing the puppies they buy from these sellers come from healthy, loving homes, when in reality the dogs come from unregulated puppy mills where dogs suffer in inhumane conditions.<sup>10</sup> Additionally, the physical and psychological effects of the inhumane conditions from which the puppies were raised may manifest themselves after the sale of the dog, resulting in significant financial and emotional costs to consumers – such as from high veterinary bills, behavioral training, and the illness and death of a pet.<sup>11</sup>

## RECOMMENDATIONS

Although we support the proposed legislation as drafted, we note that it would require “daily access to exercise” but does not specify an amount of exercise access per day. Therefore we recommend that the proposed legislation be amended to require the provision of daily exercise in an outdoor space for specific time periods, taking into consideration the individual characteristics of each animal, including breed, size, age or health.

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<sup>9</sup> *See* Footnote 2 *supra*.

<sup>10</sup> Katherine C. Tushaus, *Don't Buy the Doggy in the Window: Ending the Cycle That Perpetuates Commercial Breeding with Regulation of the Retail Pet Industry*, 14 Drake J. Agric. L. 501, 504 (2009) (concluding that many large scale commercial breeders were avoiding regulations by posing as small family breeders and selling animals directly to consumers over the Internet and shipping them to buyers, sight unseen).

<sup>11</sup> *See* USDA, Office of Inspector General, Animal Health Inspection Service Animal Care Program, *Inspections of Problematic Dealers*, Audit Report 33002-4-SF, at 37 (May, 2010) available at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf> (last visited May 6, 2013) (listing examples of consumer complaints associated with the internet purchase of dogs, including serious illnesses and conditions that cost consumers thousands of dollars to treat, many of which ended in the dog's death); Teuscher, Better Business Bureau, *The Puppy Mill Industry of Missouri: A Study of the Buyers, Sellers, Breeders and Enforcement of the Laws: Executive Summary*, at 1-2 (March 2010), available at <http://stlouis.bbb.org/Storage/142/Documents/Puppy%20Mills%20study.pdf> (last visited May 6, 2013) (“A total of 352 complaints and reports against dog breeders and sellers have been filed with the three Missouri BBBs in the past three years...Of those who complained after they had bought a puppy, more than a third said their puppies were ill when they purchased them or became ill soon thereafter, and that several of them had died. Many of the buyers spent thousands of dollars on veterinarian fees that weren't reimbursed by the seller.”).

Additionally, we note that there are a number of other areas in which the AWA could be amended to improve the lives of dogs kept on puppy mills, including amendments to increase the amount of space in dogs' primary enclosures, a ban on the use of wire flooring in primary enclosures, a ban on the stacking of cages, a minimum of an annual examination and prompt treatment of any illness or injury by a licensed veterinarian, a requirement that euthanasia be accomplished only by a licensed veterinarian using lawful techniques deemed 'acceptable' for dogs by the American Veterinary Medical Association, and regulation of the age at which a dog may be bred and number of times a dog may be bred within an eighteen month period, as well as increased inspection of such facilities.<sup>12</sup>

## CONCLUSION

For the foregoing reasons, the Committee supports the proposed legislation with recommendations.

June 2013

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<sup>12</sup> We note that in 2008, the USDA's Animal and Plant Health Inspection Service employed only 99 inspectors to conduct inspections of all licensed and registered facilities covered under the AWA throughout the country, ranging from animal research facilities, animal circuses, and slaughterhouses to large-scale dog breeding facilities. USDA, Office of Inspector General, Animal Health Inspection Service Animal Care Program, *Inspections of Problematic Dealers*, Audit Report 33002-4-SF, at 4 (May, 2010) available at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf> (last visited May 6, 2013).