

➤ Hearing Records ... HR (bills and resolutions)

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## WISCONSIN STATE LEGISLATURE COMMITTEE HEARING RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on  
Small Business,  
Emergency  
Preparedness,  
Workforce  
Development,  
Technical Colleges &  
Consumer Protection

(SC-SBEPWDTCCP)

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***Responding to the Data:  
A Guide to Constructing Successful  
Pet Friendly Ordinances***

**A project of the National Animal Interest Alliance**

**March, 2005**

**NAIA presents**

## **A guide to constructing successful, pet-friendly ordinances**

A new day has dawned!

Working with pet owners, breeders, rescues, animal control agencies, and public officials, the National Animal Interest Alliance has developed this guide to constructing successful, pet-friendly ordinances. For the first time, this document allows lawmakers, responsible pet owners, and enforcement agencies to pool their resources in a positive way regardless of the special challenges faced by communities of all sizes and in all regions of the US.

NAIA has long championed the rights of pet owners to responsibly own dogs and cats and is the only national animal interest group to promote the expertise of responsible owners as a key component of reasonable laws to govern human/animal relationships. NAIA also supports realistic animal control laws and the agencies that have the difficult job of enforcing these statutes without sufficient funds and in the face of resistance from pet owners who view them with suspicion.

As a natural outgrowth of our mission to improve human-animal relationships for the benefit of all concerned, we are therefore pleased and proud to offer this fresh look at the connection between pet owners, animal control agencies, and community animal control dilemmas, and to provide suggestions that will aid in developing a strong statute that can be supported by all citizens, regardless of whether they own a dog or cat.

While recognizing that different circumstances dictate diverse responses, NAIA believes that the general results produced by any animal control law depend on community acceptance, and, in turn, community acceptance depends on fair enforcement of reasonable laws. The facts are simple: without the backing of responsible pet owners, no animal control law can succeed; and pet owners are often reluctant to support the law unless there are clear benefits for doing so. This reluctance translates into losses of millions of dollars in uncollected license fees – fees that are critical to the support of the leash laws, nuisance laws, and other statutes designed to protect community health and safety from diseased, stray, and feral animals and from owners who refuse to keep their animals at home to prevent nuisances and injuries.

This guide grew out of our 12-year history of conferences, collaborations, and projects geared to strengthening the human-animal bond and was stimulated by our November 2004 conference dedicated to helping communities solve dangerous dog problems. The conference went beyond the mantra of “deeds not breeds” to pool resources to identify and offer incentives for responsible dog owners and to draft enforceable reasonable laws to deal with dangerous dogs and negligent dog owners. The document presents ideas for

identifying dangerous and at risk dogs and expands beyond that initial mandate to include provisions for increasing dog license compliance, providing voluntary registration for cat owners, dealing with pet-related nuisances, discussing legislative efforts that backfire, and outlining basic plans for confinement and control.

NAIA is an association of business, agricultural, scientific, and recreational interests dedicated to promoting animal welfare, supporting responsible animal use and strengthening the bond between humans and animals. Our members are pet owners, dog and cat clubs, obedience clubs and rescue groups as well as breeders, trainers, veterinarians, research scientists, farmers, fishermen, hunters and wildlife biologists. Our membership includes some of America's most respected animal professionals, advocates and enthusiasts.

NAIA provides the public with factual information about animal issues, especially those that are complex, misunderstood or controversial. Our board members are experts who represent the broad spectrum of animal interests embraced by alliance members. Many of our members are deeply involved with animals or the environment as a lifestyle, a career, or a special interest. Many NAIA members serve on local, state, and national panels dedicated to improvement in laws, policies, and regulations governing man's contact with animals. They volunteer in animal shelters, participate in breed or species rescue efforts, teach dog obedience classes, organize public education seminars and events, and share their expertise with newcomers to their field and the general public.

With such a broad spectrum of expertise at our fingertips, we are ready willing, and able to go beyond providing the information in this guide to help implement the ideas it contains. Feel free to call on us for assistance.

Sincerely,



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## **Responding to the Data:**

### **A guide to constructing successful, pet friendly ordinances**

Pet licensing was established to protect the public from diseased, free-roaming and dangerous dogs at a time when rabies was a common public health threat. The goal was to round up as many dogs as possible in a given community and inoculate them.

During the last 60 years or more, the practice of linking rabies vaccination to dog licensing became a widely accepted method for achieving that goal. But in the last few decades, pet ordinances expanded beyond issues of public health, safety and livestock protection. Today's ordinances include measures to make pet owners more responsible and humane and take aim at reducing surplus shelter animals and neighborhood nuisances such as roaming cats and noisy dogs.

Many of these newer provisions attempt to avoid problems by broadly defining or restricting the conditions under which people can own or keep pets. As a result, there are now pet limits to prevent people from keeping more than a certain number of pets; bans against owning specific breeds; extra licensing requirements for people whose pets have litters; and higher license fees for intact dogs and cats than for neutered ones.

Yet despite these and numerous other amendments put forth by well-meaning lawmakers, citizens and activist groups; and despite a dramatic increase in household pets<sup>1</sup> and the amount of money their owners are willing to spend on them,<sup>2</sup> only about 30% of pets targeted by these ordinances are ever licensed.<sup>3</sup> Attempts to license the remaining 70% have focused on the threat of enforcing greater restrictions and heavier penalties. These are empty threats, however, because funding for increased enforcement usually does not exist. So while this tack may scare a few owners into grudging compliance, it also causes a corresponding measure of cooperation and support to be lost from the group that was already compliant.

If the goal is to improve compliance levels, it's crucial to understand why the majority of American pet owners (and not just the irresponsible ones) resist even the most basic pet licensing requirements. When all is said and done, pet license compliance levels reflect community support for animal control services, so if people choose not to license, it may be because they do not recognize animal control services as necessary and beneficial or do not consider that animal control officials support the responsible pet owners in the community.

Even though the majority of households keep pets today<sup>4</sup>, and even though most pet owners report that they consider their pets as part of the family, animal control laws often treat the entire pet-owning community as the problem and their pets as disposable commodities or as nuisances that must be monitored or banned. Instead of defending the values of responsible pet owners, many ordinances today are loaded with unenforceable

provisions that actually threaten an owner's sense of security and convert otherwise responsible citizens into scofflaws, driving them underground for fear of being found in violation of the law. Worse, unenforceable statutes undermine confidence in the legal system and poison public opinion against animal control.

Nevertheless, it appears as if some lawmakers believe that the benefits produced by adding idealistic but unenforceable requirements to animal control ordinances outweigh the negative consequences of declining community support for animal control and loss of licensing revenue. In reality, unenforceable ordinances unite responsible pet owners, irresponsible pet owners and non pet owners in their opposition to animal control.

At NAIA we consider this an unfortunate and totally unnecessary outcome. Animal control agencies perform important work that deserves the support of the communities they serve. It is the purpose of the **NAIA Pet Friendly Ordinance Project** to help pet owners and municipalities alike begin to address the root cause of all these animal control problems: specifically, ordinances that make adversaries out of the public they serve.

Our research shows that to be successful, ordinances must distinguish between responsible and irresponsible pet owners. They must offer support and incentives to encourage and reward responsible pet ownership; and they must enforce reasonable penalties against irresponsible pet owners to bring them into compliance. As a result of our research, NAIA offers this ordinance concept to communities seeking answers to animal control problems. The first of its kind, *this prototype is intended as a conceptual guide* to be adapted to local and regional needs; hence it can be used in whole or in part to redesign or amend animal control ordinances. This model challenges many of the assumptions that underlie failing animal control ordinances.

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### **A word about pet limit laws and breed specific restrictions**

Number limits are commonly found in both zoning and animal control ordinances, but they are ineffective at best and counterproductive at worst because they:

- cause animal control agencies to lose potential license fees because pet owners with multiple pets avoid licensing altogether for fear of being found in noncompliance;
- are difficult to enforce;
- create bureaucratic snarls between governmental agencies when animal control officers are required to enforce zoning laws; many which are generated by unresearched local planning office opinions;
- are vulnerable to court challenge

This model law does not include either pet number limits or breed-specific restrictions. NAIA study shows that it is far better to prosecute actual nuisances and dangers than it is to penalize the universal *possibility* of a nuisance or danger. Therefore NAIA supports nuisance laws and dangerous dog laws that clearly describe dog and owner behaviors that constitute nuisances and public dangers. We have learned that pet number limits and breed specific restrictions simply do not work. They are difficult to enforce and create animosity among responsible owners who become criminals as a result of poorly defined terms and arbitrary laws.

- are used to harass neighbors;
- ignore the ability of responsible owners to keep more than X-number of pets without causing a nuisance;
- increase the number of pets entering shelters by prohibiting families from adding a pet they can easily care for; and
- lead to a disrespect for the law and a willingness to violate it.

Number limits are often cited as a means to prevent the hoarding of more pets than can be properly housed and cared for, but this problem is better solved by strict enforcement of animal control and nuisance laws that require proper confinement and noise abatement, by health regulations that govern odor and waste, and by cruelty laws that protect animal welfare.

Pet number limits are not only unenforceable and destructive, they were also ruled unconstitutional when challenged in Pennsylvania.<sup>5</sup>

Breed restrictions are also costly, impossible to enforce and likely to cause the deaths of many well-behaved, well-trained dogs that are beloved family pets. In addition, they give citizens the false sense of security that they are protected because a breed or type of dog has been banned. NAIA believes that well-constructed and strictly enforced dangerous dog laws that target irresponsible owners, illegal dog activities and aggressive dogs serve the community far better than specific breed restriction laws.

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### **Breeder licenses and restrictions**

Beginning in the early 1990's, activist groups convinced some municipalities that breeder licensing and other restrictions would reduce the number of pets entering shelters and raise funds needed to cope with overpopulation. They claimed that breeders were the source of shelter problems, and they used the media very effectively to promote anti-breeder sentiment and anti-breeder ordinances.<sup>6</sup>

They euthanized dogs and cats on television to showcase the issue of overpopulation and inflamed the public against breeders who they said were to blame.<sup>6</sup> Much of the information used to sell these ordinances was not true. For one thing, they drew no distinction between different kinds of breeders; instead, they lumped responsible breeders who dedicate themselves to improving their breeds with people who breed animals without regard to their health, welfare or placement and with families who simply forgot to spay a household pet and wound up with an unwanted litter.

Today, most of the counties that adopted such provisions have long since discarded them because they did not work. These laws alienated the most responsible dog breeders in the community, but had no effect on the irresponsible ones they were intended to reach. They created a wedge between animal control and citizens who formerly supported them. They drove responsible breeders underground, and they didn't raise funds or address the



real source of surplus shelter dogs and cats. They were failures by every objective measure.<sup>7,8</sup>

NAIA opposes breeder licensing and restrictions, not only because they don't work, but because they are detrimental to the production of well-bred, healthy, puppies and kittens of good breed temperament. These restrictions lead to the conclusion that breeding pets is a shameful activity when, in fact, in-home hobby breeders who attend dog or cat shows and belong to kennel or cat clubs are major stakeholders in responsible pet ownership. Such breeders are the best sources for healthy puppies and kittens and excellent resources for responsible pet ownership education projects, breed rescue efforts, obedience training, temperament evaluation, and behavior problem-solving. They host dog training classes and microchip clinics; their club events bring millions of tourism dollars to their communities, and they often donate event profits to charity. These highly experienced advocates of responsible pet ownership should be the natural allies of pet licensing programs, but because they've been made the brunt of unenforceable anti-breeder provisions, they often avoid dealing with animal control agencies altogether.

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#### **A few more notes on unenforceable provisions ...**

Some communities have been tempted to include prohibitions or restrictions on animal husbandry practices or to add language that substitutes guardianship for animal ownership. NAIA opposes these provisions because they change the focus of animal control laws, create unintended legal and economic consequences and do nothing to enhance compliance.

## **Essential elements of a *successful pet friendly ordinance***

Now that we've emphasized elements that do not work and should not be included in pet ordinances, it's time to look at some elements that will convert a failing ordinance into a truly workable one that will serve the community well. Here's our model.

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### **Pet licensing**

In an ideal world, county governments would fully finance animal control services from the general fund, and pet licensing as we know it today would be converted to an identification system designed to assure rabies vaccination compliance, monitor at risk dogs and distinguish cats that have owners from ones that do not. But in most jurisdictions, licensing programs continue to be important because dog licensing fees are still needed to supplement the costs of running a professional animal control agency.

As much as those fees are needed, many licensing programs fail because pet owners do not see the advantages of buying a license, especially for a pet that stays home. Responsible pet owners often see animal control ordinances as making them pay for the actions of irresponsible owners who ignore the law. Therefore, our model ordinance distinguishes between responsible and irresponsible owners by providing incentives to reward responsible owners, penalties to bring irresponsible owners into compliance and a program for increasing the number of licensed pets. Each jurisdiction (city, township, county) may set its own license fees and has the option of offering multiple-year or lifetime licenses and registrations.

In order to develop and implement an effective dog licensing or voluntary cat registration program, local governments must:

- i. eliminate the unenforceable provisions (i.e., pet number limits, breed and breeder restrictions, unrealistic reclaim fees) that make people fear animal control agents and agencies;
- ii. provide incentives by giving financial breaks to those who demonstrate responsible ownership practices such as permanent pet identification, secure fencing, proof of training, spay or neuter, early or lifetime licensing/registration, etc.
- iii. pledge special treatment for pets that are identified by microchip and a license or registration by providing one free trip home, longer hold times and specific contact efforts;
- iv. write and enforce meaningful penalties against violations of dangerous dog laws and nuisance ordinances;
- v. create an animal control advisory board made up of representatives from pet-related businesses, an animal welfare group, dog and cat club enthusiasts, and a non pet owner. These might include a veterinarian and a groomer, a representative from the pet industry, representatives from local cat and dog clubs, a dog trainer and a homeowner who does not have a pet; and

- vi. advertise the program to local citizens. Openly discuss the challenges faced by animal control and invite the community to help. Explain how the new, improved ordinance and licensing and registration programs are designed to benefit them and the community. Provide visible identification (bumper stickers, T-shirts, pins, etc.) for responsible pet owners to build community awareness of the program and build a viable partnership between responsible owners and animal control agencies. Perception is reality. If the public doesn't know about the innovative programs that have been established, they will have far less chance of success.
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### Dog licenses

1. All dogs that have reached a designated age (usually 3-6 months) in the jurisdiction must be licensed.

2. License fees will be set by the county using a format or system of licensing that enables animal control to recognize and reward responsible dog ownership at the same time it sets penalties for irresponsible dog ownership. *High license fees may lower compliance rates*, so fees should be chosen carefully. Licenses may be valid for the term of the current rabies inoculation with discounts on annual license fees given for licenses that span more than one year. For example: If a one year license fee is \$30, a two year license might be \$25 per year and a three-year license \$20 per year.

Many jurisdictions already provide a lower license fee to reward those who spay or neuter their pets. This practice has proven to be an excellent method for encouraging owners to neuter pets that are not involved in formal breeding programs. But many pets impounded in shelters today are already neutered, demonstrating that neutering is only part of the solution. There are numerous other behaviors that promote responsible pet ownership. Discounted fees can also be used as incentives to encourage or reward those who permanently identify their pets, confine them behind a fence, take them to obedience classes, or complete other tasks that make the job of animal control easier and that protect the community from the nuisance or danger of unrestrained and unsupervised pets.

Incentives may include but not be limited to the following, to be provided for the dogs of those who:

- i) complete an AKC Canine Good Citizen course and test<sup>10</sup>;
- ii) achieve an obedience title awarded by a nationally respected organization such as the American Kennel Club;
- iii) use microchips (or other permanent identification that is acceptable to the agency)<sup>11,12</sup>;
- iv) confine their dogs in a yard that is securely fenced to prevent escape;
- v) belong to an obedience club, kennel club, or dog organization that promotes responsible dog ownership<sup>13,14</sup>;

- vi) are active participants in dog sports, search and rescue activities, or therapy dog visits<sup>13,14,15</sup>;
- vii) neuter their pets; or
- viii) participate in a dog or cat rescue program.

3. Incentive discounts cannot be used to reduce the yearly dog license fee below a minimum amount set by the agency. Under the current system, there is one fee for fertile dogs, and a discounted fee for neutered dogs, the price of a neutered dog often being about half of the rate charged for an intact dog. Under the system recommended here, responsible dog owners with intact dogs would also be eligible to receive discounts for practices that are associated with responsible dog ownership. Dog owners would choose from a menu of license discounts: a dog might qualify for a \$15 discount if he is neutered; an \$8 discount if microchipped; an \$8 discount if the dog passes a CGC Test or completes an obedience course or achieves an obedience title, and \$5 if the owner participates in breed rescue, belongs to a club or association that promotes responsible dog ownership or participates in dogs sports or therapy dog visits to hospitals or nursing homes<sup>16</sup>. Those who wish to keep their dogs intact can get their discounts by permanently identifying their dogs, participating in dog sports or therapy work, belonging to a club that promotes responsible pet ownership, performing rescue, confining their dogs behind a secure fence, etc.

A review of licensing statistics shows that neutered dogs have the highest license compliance rates. This suggests that incentives work and that the responsible owners of intact dogs might also be excellent candidates for licensing if incentives were offered to them. A side benefit of this program is its public education value. It provides a vehicle for relaying important information about specific elements of responsible dog ownership to the public, with a positive feedback loop for people who license their dogs.

4. Breeders, rescuers, hunting dog owners and others with multiple dogs can purchase annual kennel (facility) licenses for an amount set by the county using a format or system that enables animal control to recognize and reward responsible ownership. Facility licenses are available for dogs owned or housed on the property as long as the facility and owner meet minimum standards for housing and care.

5. Facility licenses can be discounted based on the incentives listed for individual dog owners.

6. If public perception of animal control is going to change, public education and advertising programs will be necessary to inform citizens about animal control programs and goals. Therefore, license fees must be set aside in a fund specifically for animal control programs, including impoundment of uncontrolled dogs, administration of the county animal control program, and annual public education events to encourage the responsible dog ownership necessary for a viable animal control program.

7. License fees shall be waived for:

- i) any dog used primarily as a service animal when the owner or keeper establishes the service animal's function as an assistance animal under the Americans with Disabilities Act, 42 USC 12101 et seq.
- ii) any dog used by a public agency or a private organization under contract to a public agency as a police dog, tracking dog, search and rescue dog, arson or drug sniffing dog, or for any other job that furthers the mission of the agency to protect and serve the public interest.

8. Juvenile licenses may be made available for free for dogs below licensing age. Each jurisdiction can determine the age division between juveniles and adults. Juvenile licenses provide a non-threatening entry into the system when the puppy is acquired and new owners are most open to information about becoming responsible pet owners. Juvenile licenses can be available through breeders, veterinarians and pet stores at the time the puppy is obtained or first seen by a veterinarian and can be input into the data base for rabies vaccination and license renewal reminders.

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### **What to do about cats ...**

NAIA opposes cat licensing for a variety of reasons. Cats pose little threat to public health, which is the conventional reason for government regulation of animals. To the contrary, cats can and often do provide a public health benefit in settings where mice and other rodents might otherwise proliferate. In addition, some cats never go outdoors and it is unjust to expect the owners of indoor cats to foot the bill for feral, free-roaming and indoor/outdoor cats that become nuisances. Studies indicate that more than 40% of US cats are strays or feral animals and that about 10% of households feed stray cats.<sup>17</sup>

Cats are now America's most popular companion animal. In many parts of the country, cats continue to serve communities in their historical role, keeping rodent populations under control, as well as being family pets. In densely populated urban settings, though, outdoor cats aren't always greeted with open arms. Free-roaming cats often become neighborhood nuisances and have replaced dogs as the number one surplus shelter animal in many parts of the US. As a result, even though 20-25% of shelter cats appear to have been owned in the recent past, animal control agencies spend significant resources taking care of cats for which no one else takes responsibility.

From a practical standpoint, once an unidentified cat ventures beyond its own property, it belongs to no one. Furthermore, cat owners aren't as likely as dog owners to immediately go looking for a lost pet at the local shelter, so the number of cats returned to their owners is disproportionately low.<sup>18</sup> Many shelters post photos of impounded cats on their websites to help owners locate a lost pet, but in the absence of permanent identification, shelters have a difficult time distinguishing between cats whose owners will look for them and less fortunate ones. Consequently, some cats are placed or euthanized before their owners can find them, a very disheartening circumstance. This is why our model recommends owner-

initiated voluntary cat registration linked to microchips to help shelters reunite cats with their owners.

For a voluntary cat registration/identification program to work, animal control agencies must agree to check all cats entering the shelter for a microchip and contact their owners. If the owner cannot be located immediately, the agency must also agree to hold registered/chipped cats beyond the standard hold time. This system of owner-initiated voluntary registration linked with identification provides responsible cat owners a better chance that their pets will be returned. Just as importantly, it provides animal control agencies a means of distinguishing between cats whose owners are more dedicated to them than others in the shelter.

Voluntary, owner-initiated registration linked to identification should not be seen as a regulatory scheme but as a pact or service agreement between responsible cat owners who want to increase their odds of getting a lost pet home and animal control, which agrees to treat such cats with greater concern by making defined efforts to contact their owners and extending impound times before placement or euthanasia. The fee charged for this optional service will be used to defray some of the extra expense needed to give a cat special attention.

Registration fees will be set by the county in an amount that encourages cat owners to participate.

For communities that already mandate cat licensing, responsible owners can receive license fee discounts if they:

- i) keep cats indoors;
- ii) spay or neuter their pets;
- iii) belong to a cat club that promotes responsible pet ownership<sup>19</sup>; or
- iv) participate in cat shows or cat rescue efforts<sup>19</sup>.

Incentives cannot reduce the license fee below a base amount. For details on how to implement incentive and education programs, see the discussion under dog licensing above.

NAIA supports animal control agencies that recognize and work with feral cat colonies and their caretakers by providing health checks and spay and neuter services for colony animals. Identification of the cats adds to the success of the colony program.

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### **One free ride home**

If a licensed or registered pet is picked up at large and is identified by its chip or license tag, thereby allowing the animal control officer to return it without taking it to the shelter, the pet will be returned to the owner directly. When returning the pet, the animal control

officer will remind the owner that the pet must be confined and that further violation may result in impoundment, a fine, or a citation.

If the pet is picked up running at large on a second occasion, it will be taken to the shelter and a citation for violation will be issued to the owner. Penalties can be increased for subsequent violations.

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## **Nuisances**

Abatement of nuisances caused by pets is essential for neighborhood harmony.

1) Nuisances include excessive noise, soiling of public property and of private property not owned or rented by the pet owner, and odors caused by failure to clean the dog's resident property.

2) It is a dog's nature to bark at strangers and other dogs and a dog owner's responsibility to minimize the impact this noise has on the neighborhood. The noise rises to the level of nuisance when the dog barks, howls, or yelps in a habitual, consistent, or persistent manner that continually disturbs the peace of the neighborhood.

3) Soiling occurs when the dog or cat

- i) deposits feces on public property, public and private rights-of-way, and private property;
- ii) sprays or deposits urine on lawns and landscaping that causes damage to grasses, flowers, shrubs, etc.

4) Nuisance soiling also includes odors caused by failure to properly dispose of feces and clean urine from kennels and yards.

5) Owners are responsible for picking up feces deposited by their dogs in public places, confining their dogs and cats so that their pets do not soil neighbor's yards, and cleaning up their own properties to prevent odors.

6) The animal control agency shall investigate each complaint and issue a warning letter to the dog owner on the first offense. A citation may be issued on subsequent offenses.

7) Penalties may include fines or court-ordered owner attendance at a responsible dog ownership session or dog and owner attendance at an obedience school at the owner's expense. The fines may be waived upon completion of the requirements.

8) Dog owners who repeatedly violate nuisance laws will be subject to increased fines and to requirements that they provide secure confinement for their pet. If the violation

involves sanitation on the property, health inspectors may make periodic visits to assure that sanitation is maintained.

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### **Confinement and control**

Most animal control problems are caused by loose dogs and stray cats. Therefore, laws and policies written to protect the community must be tailored to encourage responsible dog ownership and strictly enforced against owners who fail to keep their pets at home or prevent them from becoming nuisances or dangers to their neighbors.

**1) Confinement:**

All dogs and cats must be confined to prevent escape.

**2) Control:**

When off the owner's property, the dog must be restricted by a leash or otherwise controlled by a legally responsible person to prevent it from causing a nuisance.

**3) Tethering:**

Because tethering in an unfenced area is an invitation to approach a dog and thereby risk injury to the dog or person, this method of control is allowed only as a redundant method of confinement behind a perimeter fence or within another enclosure in urban areas.

Tethered dogs cannot escape from perceived threats; as a result, tethering has been implicated in a significant number of bites when children tease dogs or enter a tethered dog's limited territory. A reasonable timetable should be set to enable dog owners to obtain the required fencing.

**4) Animal control personnel have the authority to remove a dog or cat from a vehicle if the animal's health is endangered by such confinement in hot weather.**

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### **Dangerous dogs**

Communities have a right and a responsibility to deal with dangerous dogs in a manner that clearly identifies such dogs and holds owners responsible for their actions. Identification of at risk dogs is valuable to allow for intervention before a serious injury or death occurs. However, animal control agents should be trained to recognize the difference between a dog at risk and a dog that is acting as a watchdog or is simply alerting strangers to avoid its territory.

Animal control agencies should investigate claims that dogs are dangerous, provide due process to owners who are accused of harboring dangerous dogs, and be authorized to euthanize dogs if deemed necessary after due process has been exhausted. Regardless of the appeals of activists in the no-kill movement, dogs adjudicated as too dangerous to live in one community should not be shipped to another jurisdiction.



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## **At risk dog**

### **1) An at risk dog is:**

- i) a dog that, when off the property of the owner and unprovoked, menaces, chases, displays threatening or aggressive behavior or otherwise threatens or endangers the safety of any person;**
- ii) a dog that, while running at large, menaces, attacks, or injures a domestic animal;**
- iii) a dog that, while running at large, jumps on, chases, or bites a person causing a less than severe injury. (A severe injury is any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.)**
- iv. a dog that, unprovoked and absent extenuating circumstances, menaces, attacks, or bites a person on the owner's property causing a less than severe injury.**

### **2) Procedure for classifying a dog as at risk:**

Upon filing of a complaint, the animal control officer or his representative shall investigate the circumstances and notify the dog owner of the charge. The results of the investigation should be reported to a magistrate or other court officer or to an appointed animal control board and to the dog owner. If the court officer deems the dog to be at risk, the dog owner has the option of filing an appeal with the animal control board or court or accepting the designation.

Notwithstanding the above, the dog warden or his representative shall have discretionary authority to refrain from classifying a dog as at risk, even if the dog has engaged in the specified behaviors, if it can be determined that the behavior was the result of the victim abusing or tormenting the dog or it was directed toward a trespasser or a person committing or attempting to commit a crime or it involved other similar mitigating or extenuating circumstances.

### **3) Sanctions for owning an at risk dog:**

The owner must provide secure fencing to keep the dog confined on his own property. When off the owner's property, the dog must be kept on a secure leash of no more than four feet in length and under control of a legally responsible person. The owner must also place photos of the dog on file with the animal control agency, microchip the dog for identification, and provide proof of liability insurance that covers injuries. (This insurance may be difficult or impossible to obtain, so owners should have the option of self-insuring against an incident.)

Depending on the outcome of the investigation, the court may also assign the dog to private or group obedience classes or to evaluation by a behavior specialist and may require the owner to attend a responsible ownership class. These additional requirements will be at the expense of the owner.

#### 4) Procedure for removal from an at risk dog list:

If there have been no further incidents for a period of 18 months and the owner can provide proof of obedience training at a reputable club or business, he may appeal to the court of the animal control board for removal of the designation.

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### **Dangerous dog**

#### 1) A dangerous dog is one that

- i) has previously been classified as at risk and exhibits escalating aggressive behaviors that result in further complaints;
- ii) a dog that, without provocation, inflicts severe injury on a human being;
- iii) repeatedly menaces, maims, or kills domestic animals when off its owner's property; or
- iv) is used to threaten people or domestic pets or is used as a weapon in the commission of a crime.

Notwithstanding the above, the dog warden or his representative shall have discretionary authority to refrain from classifying a dog as dangerous, even if the dog has engaged in the specified behaviors, if it can be determined that the behavior was the result of the victim abusing or tormenting the dog or it was directed towards a trespasser or a person committing or attempting to commit a crime or it involved other similar mitigating or extenuating circumstances.

#### 2) Procedure for classifying a dog as dangerous:

Upon receiving and investigating a complaint, the animal control officer or his representative shall investigate the circumstances and notify the dog owner of the charge. The results of the investigation should be reported to a magistrate or other court officer or to an appointed animal control board and to the dog owner. If the court officer deems the dog to be dangerous, the dog owner has the option of filing an appeal with the animal control board or accepting the designation. Depending on the circumstances, the dog may be impounded pending disposition of the case.

#### 3) Sanctions for owning a dangerous dog:

A dangerous dog may be returned to the owner or may be destroyed depending on the outcome of the investigation. If the dog is returned to the owner, it must be microchipped, confined in a locked pen with a top when not in a home or other building, and restricted by a sturdy leash no longer than four feet when in public. The pen must be built so the dog cannot dig his way out. Photos of the dog must be filed with the animal control agency and the owner must provide proof of at least \$100,000 in liability insurance. Depending on the outcome of the investigation, the court may require a behavioral evaluation of the dog and sentence the owner to attend a responsible ownership class.

#### 4) Confinement of dangerous dogs

Dogs that have been adjudicated as dangerous must be confined behind a locked fence of sufficient height and materials to contain the dog and prevent trespass. Confinement must be sufficient to prevent children from coming into contact with the dog. When off the owner's property, a dangerous dog must be restricted by a leash of no more than four feet in length and may be required to wear a muzzle.

5) **Transporting dangerous dogs:**

Dogs that have been adjudicated as dangerous must be confined in a crate in a closed vehicle to prevent opportunities for escape and in a manner sufficient to prevent children from coming into contact with the dog through an open window in the vehicle.

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### **Penalties for dangerous dog running at large**

NAIA has a no-tolerance policy towards dangerous dogs running at large. Therefore, the punishment will be severe, absent mitigating circumstances.

- 1) Dangerous dogs that run at large and repeat the behavior that earned the designation will be impounded and euthanized.
- 2) Dangerous dogs that run at large without repeating that behavior may be returned to their owners at the discretion of the animal control agency after reviewing the case and inspection of the confinement facility.
- 3) Owners who fail to confine their dangerous dogs out of carelessness or neglect face high fines and possible jail time. The assigned penalties must be enforceable.

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### **Dog fighting and other crimes**

Raising and training dogs for fighting and participating in dog fighting are serious crimes that deserve tough penalties, including prison time.

Those who use dogs to threaten others or to guard criminal activities should also face serious consequences, including jail time.

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### **Notes**

1. According to the *U.S. Pet Ownership & Demographics Sourcebook* (AVMA, 2002) there are more than 60 million pet dogs and nearly 70 million pet cats in the US.  
(<http://www.avma.org/membshp/marketstats/sourcebook.asp>)

2. American Pet Products Manufacturers Association Fact Sheet: Industry Statistics & Trends, ([http://www.appma.org/press\\_industrytrends.asp](http://www.appma.org/press_industrytrends.asp)) 3. A hard statistic to pin down, but 30% is the number most often cited by animal control agencies as the high end of the compliance curve. Many communities have a lower compliance rate.

4. According to the 2003/2004 APPMA National Pet Owners Survey, 39 percent of US households (40.6 million) own at least one dog and 34 percent (35.4 million) own at least one cat. ([http://www.appma.org/pubs\\_survey.asp](http://www.appma.org/pubs_survey.asp))

5. In *Commonwealth v Creighton* (Pennsylvania 639 A.2d 1296 (Pa.Cmwth.,1994), the appeals court overturned a pet limit and quoted these precedents: **"What is not an infringement upon public safety and is not a nuisance cannot be made one by legislative fiat and then prohibited."** [*Kadash v. City of Williamsport*, 19 Pa. Commonwealth Ct. 643, 650, 340 A.2d 617, 621 (1975).] Further, **"even legitimate legislative goals cannot be pursued by means which stifle fundamental personal liberty when the goals can be otherwise more reasonably achieved."** *Commonwealth v. Sterlace*, 24 Pa. Commonwealth Ct. 62, 66, 354 A.2d 27, 29 (1976). For more information, see <http://www.naiaonline.org/body/docs/penny2000.doc>

6. Pet Overpopulation – A Self-Fulfilling Prophecy? by Anna Sadler, Cat Fanciers Association (<http://www.cfainc.org/articles/legislative/pet-overpopulation.html>). Included in this article is the following: "The healthy puppy and kitten euthanized on live television as a kick-off to Kim Sturla's original breeding ban proposal sent animal lovers scurrying to their checkbooks, and this tactic is being repeated nationwide."

7. The San Mateo County Pet Overpopulation Ordinance: A Legislative Failure, a report from The Animal Council (<http://www.fanciers.com/npa/sanmateo.html>)

8. San Mateo ordinance fails test of time, <http://www.naiaonline.org/body/articles/archives/smateo01.htm>

9. In 1993, a Pennsylvania legislator introduced a bill that call for a "voluntary moratorium" on all dog breeding in the state. (<http://www2.legis.state.pa.us/WU01/LI/BI/BT/1993/0/HR0194P2697.pdf#search='breeding%20moratorium'>)

10. AKC Canine Good Citizen program, <http://www.akc.org/events/cgc/index.cfm>

11. AKC Companion Animal Recovery program, <http://www.akccar.org/>

12. AVID Microchip ID, <http://www.avidmicrochip.com/>

13. AKC clubs and performance events are listed on the organization website, <http://www.akc.org>

14. United Kennel Club clubs and performance events are listed on the website, <http://www.ukcdogs.com>

15. Many states have canine search and rescue organizations that train dogs for tracking lost persons or locating the victims of tragedies. The North American Search Dog Network (<http://www.nasdn.org/>) provides general information about the use of search and rescue dogs.

16. Therapy Dog International (<http://www.tdi-dog.org/>) is one organization that certifies dogs for nursing home and hospital visits.

17. National Pet Alliance website, <http://www.nationalpetalliance.com/>

18. Statistics taken from Multnomah County Animal Services for the last six months in 2004 paint a typical picture of owner returns of dogs versus cats. 3128 cats were impounded: 87 cats (3%) were returned to their owners. 2359 dogs were impounded: 1062 dogs (45%) were returned to their owners.

19. Cat Fanciers' Association Inc., <http://www.cfainc.org/>



# PUPPY MILL CRUELTY...

## You Can Stop It

**T**HE DOG BREEDER OR PET store you've picked to buy your puppy from might be supporting the notorious "puppy mill" industry. Puppy mills are breeding businesses that raise dogs in shockingly poor conditions. "Breeding stock" animals are caged and continually bred for years, without human companionship and with little hope of ever becoming part of a family. After their fertility wanes, breeding animals may be killed, abandoned, or sold to another mill. The result of all this breeding? Hundreds of thousands of puppies, many with behavior and health problems not easily seen at the time of purchase.



HUMANE SOCIETY OF MISSOURI

## Without Pet Stores, Puppy Mills Wouldn't Survive

THEY SEEM TO KNOW WHAT THEY'RE DOING, but behind the friendly façade of pet stores often lies the ugly reality of puppy mills. There's only one sure way to combat the tragedy of puppy mills—don't support them. No matter how cute the puppy in the pet store is, please don't buy the animal. You may feel like you're "rescuing" the dog, but in reality you're only freeing up space for another puppy mill product while supporting and encouraging an industry based on abuse. Unless you personally visit the place your puppy was born and raised—and where the puppy's parents live—there's no way to know that your puppy didn't come from a puppy mill, no matter what a sales clerk tells you.



THE HSUS



HUMANE SOCIETY OF MISSOURI



THE HSUS

## Online Shopping—the New Face of a Terrible Business

YOU THINK YOU'VE FOUND THE PERFECT breeders, with a website filled with pictures of cute puppies, claims of how much they adore their "furry babies," and warnings that they only sell to "qualified homes." Everything feels right about this place, but beware—such websites are one of the newest scams puppy mills are running, and there's no way to know by looking at a website or talking to someone over the phone whether you're dealing with a puppy mill.

Websites allow puppy millers to "cut out the middleman" by selling directly to consumers. Not only is this more profitable, but in most states it allows the puppy mill to avoid being inspected by government agencies.

Websites loaded with pictures and promises of a loving home may seem like an ideal spot to find the right puppy for you, but remember that puppy mills house dogs in deplorable conditions, forcing them to churn out puppies for quick sale and shipment. Your purchase could be supporting cruelty.

## Heart Set on a Purebred Dog?

SHELTERS AND BREED RESCUE GROUPS have purebred dogs available for adoption every day. Contact The Humane Society of the United States Companion Animals staff at 202-452-1100 or 2100 L Street, NW, Washington, DC 20037, for help finding a purebred rescue group or shelter in your area.

For more on puppy mills, visit [www.StopPuppyMills.com](http://www.StopPuppyMills.com), and for help finding a breeder who isn't running a puppy mill, visit [www.PuppyBuyersGuide.org](http://www.PuppyBuyersGuide.org).

*Promoting the protection of all animals*

**THE HUMANE SOCIETY  
OF THE UNITED STATES**

2100 L Street, NW, Washington, DC 20037  
202-452-1100 • [www.hsus.org](http://www.hsus.org)

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Date  
Aug - 2006  
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Found In  
SB 308  
Folder

County ordinance  
established in  
Minnesota -  
borders a  
puppy mill  
County i want  
to "nip problem  
in the bud".

## Sherburne County Private and Commercial Kennel Licensing Ordinance

ORD - 134

### Section I. Purpose

This licensing ordinance is intended to help enforce public health, safety and welfare concerns for the general public and animals for the purpose of prohibiting nuisance, animal neglect, and containing the spread of diseases. Public safety concerns such as dangerous and/or nuisance dogs have been identified by law enforcement to be potential public safety concerns associated with private and commercial kennels.

### Section II. Title

This licensing ordinance shall be known and referred to as the Sherburne County Private and Commercial Kennel Ordinance, hereinafter "License."

### Section III. Jurisdiction, Scope, Interpretation, Severability

#### A. Jurisdiction

The jurisdiction of this License shall apply to all the unincorporated areas of Sherburne County in which the County has zoning and land use authority. Private and Commercial Kennels are allowed as a Permitted Use in the Agricultural, General Rural, Urban Expansion, Commercial, and Industrial zoning districts as referenced in the Sherburne County Zoning Ordinance, Sections 8 through 11, subdivision 2.

#### B. Scope

From and after the effective date of this license, all commercial kennels shall be subject to the terms of this License.

#### C. Interpretation

The provisions of this License shall be controlling, unless the provisions provided under Minnesota State Statute, other ordinance, or regulation impose more stringent requirements in which those requirements shall be controlling. Words and phrases contained within this License are to be construed according to the rules of grammar and according to their common and approved usage. Singular words contained within this License include the plural and the singular. Words of in the past or present tense also include the future.

**D. Severability**

If any provision of this License or the application thereof to any person or circumstance is held invalid, said invalidity does not affect other provisions or applications of the License which can be given effect without the invalid provision or application, and for this purpose, the provision of this License are severable.

**Section IV. Definitions**

**Animal** - every non-human species of animal, both domestic and wild.

**Animal Control Authority** - a person employed by or under contract with the County and/or Township who is responsible for animal control enforcement.

**Dog** - any animal in whole or in part of the species canis familiarus.

**Environmental Health Officer** - an official employed by or under contract with the County and/or township who is responsible for investigating noise complaints.

**Kennel, Commercial** – Any place where four or more dogs over six months of age are owned, kept, boarded, bred and/or offered for sale.

**Kennel, Private**– Any place where four or more dogs over six months of age are owned or kept for private enjoyment.

**Kennel Run** – enclosed area, indoor or outdoor to allow animals to exercise.

**Person** - one (1) or more natural persons; a partnership, including a limited partnership; a corporation; a trust; or any other business organization or association.

**Unreasonably disturb the peace and quiet** - includes, but is not limited to, the creation of any noise by any animal which can be heard by any person, including the Animal Control Authority, Environmental Health Officers or licensed peace officers, from a location outside of the building or premises where the animal is being kept and which animal noise occurs either: (1) repeatedly over at least a seven-minute period of time with one minute or less lapse of time between each animal noise during the seven-minute period, or (2) repeatedly over at least a fourteen-minute period of time, at an average of at least twelve animal noises per minute.

**Unsterilized Female Dog** – non-spayed female dog over six months of age.

**Section V. Requirements**

1. Private and Commercial Kennels may operate in the Agricultural, General Rural, Urban Expansion, Commercial, and Industrial zoning districts as provided in the Sherburne County Zoning Ordinance upon the issuance of the Sherburne County Private and/or Commercial Kennel License, and meeting any other requirements imposed by law.

2. The licensee shall at all times remain compliant with all applicable local, state and/or federal laws, rules and / or regulations. Any violation of any applicable local, state and / or federal laws, rules and or regulations, shall result in the immediate revocation of the license.
3. No more than forty (40) dogs over six months of age may be kept on the private and or commercial kennel property, including no more than ten (10) unsterilized female dogs over six months of age.

**A. Location and Kennel Structure**

1. Kennels must be located on a minimum of two and one half (2 ½) acres unless located within the Commercial or Industrial Zoning Districts.
2. Kennels or shelters and dog runs may not be located within 500' of a pre-existing residence except that of the kennel owner.
3. Kennels may require a building permit if over 120 sq ft in size, and must comply with building setbacks within the applicable zoning district.
4. Dogs must be confined or under direct control of the kennel operator or staff at all times. Outdoor commercial kennel areas shall be fenced. Fencing shall consist of durable materials, with a minimum height of six (6) feet, and shall deter dogs from escaping over, under, or through the fence.
5. All-weather kennels or shelters and dog runs or enclosed exercise areas shall be provided for all dogs and shall be adequately sized for the particular breed.
6. The owner and/or operator of the Private or Commercial Kennel shall operate the kennel so as to not unreasonably disturb the peace and quiet of any person.

**B. License, Inspection and Enforcement**

1. Complete applications shall be reviewed and approved or denied within 30 days of the date of submittal. Annual licenses are valid from the time they are issued until June 1<sup>st</sup> the next year after their issuance. The annual license fee will be set by the County Board.
2. Private and Commercial Kennel Licenses shall be issued by the Sherburne County Planning & Zoning Department.
3. The application and Operational Plan must be complete in order for the Planning & Zoning Department to accept and review the application. Prior to administrative approval, the Sheriff's Department may conduct a criminal background check of the applicant and property owner.
4. The Sheriff's Department and/or Public Health Department shall inspect Commercial Kennels on an annual basis unannounced.<sup>1</sup>
5. All complaints concerning dogs within the unincorporated areas of the County shall be addressed to the Sheriff's Department.
6. Complaints shall be investigated by the Sheriff's Department and/or the Public Health Department acting as the Animal Control Authority and/or Environmental Health Officer.
7. Any person who violates any provision of the Ordinance shall be deemed guilty of a misdemeanor and shall be punishable according to State of Minnesota Law. Each day that a violation continues shall constitute a separate offense. The County may also initiate any applicable civil action, such as the seizure of animals and/or revocation of a Private and/or Commercial Kennel license.

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<sup>1</sup> Author's Note: Time and costs associated with inspections shall be included within the annual license fee.

### **C. Operational Plan**

An Operational Plan shall be submitted to include the following:

1. Name of Kennel Operator(s), address, phone number, signature, and date of signature.
2. Name of property owner(s), address, phone number, signature, and date of signature.
3. Address of property to be used for kennel (if different than above).
4. Name of business.
5. Site Plan, to include:
  - a. Property acreage, location and approximate acreage or dimensions of kennel area and runs.
  - b. Distance between kennel, exercise area and property line.
  - c. Customer parking area, if applicable.
  - d. Waste Disposal area (i.e. waste bin, spreading area, etc).
  - e. Location of all structures on property and distance to kennel area.
  - f. Location of well and septic system
6. Total number and breed(s) of dogs over six months of age to be permanently housed on property.
7. Number of dogs over six months of age to be temporarily (boarded) on property.
8. Number of Unsterilized Female Dogs to be housed on property for the purposes of breeding.
9. Number of kennel employees, full and part time (including owner/operator), and the approximate months, days and time periods per week employees will be overseeing kennel operations.
10. Ratio of dogs to employees (full-time equivalent).
12. Waste disposal plan, to include a copy of a contact with the waste hauler who will be "specifically" removing animal waste.
13. Proposed signage and location (maximum of one (1) non-illuminated sign not to exceed 12 sq ft located on the premises).

A copy of the complete application shall be proved to the applicable township by the Planning and Zoning office for their records.

### **Section VI. Public Nuisance**

No person owning, operating, having charge of, or occupying any building or premises shall keep or allow to be kept any dog which shall, by any noise, unreasonably disturb the peace and quiet as defined herein.

### **Section VII. Date of Effect**

All pre-existing Private and/or Commercial Kennels as defined in this ordinance shall comply with this ordinance within six months of the Date of Effect or shall be deemed guilty of a misdemeanor and shall be punishable according to State of Minnesota Law.

This provision was passed by the Sherburne County Board of Commissioners on the 1st day of August, 2006 and duly filed with the Sherburne County Auditor.

Effective date: September 5, 2006

Signed: Terry Nagorski, County Board Chair

The foregoing instrument was acknowledged before me this 2nd day of August, 2006.

Linda Colleen Bronson  
Signature of person taking acknowledgement

*Drafted by the Sherburne County Zoning Office  
Sherburne County Government*



Found In  
SB 308  
Folder

# Profit and Loss

Time to clamp down on the factory farms that churn out helpless puppies

► **By Sandy Miller**

Chances are, it was the first time she'd ever seen the world outside a filthy, crowded kennel.

And that's what frightened her so much.

The dog cowering under the truck in the parking lot of a dog auction that September afternoon six years ago didn't even resemble a golden retriever. She was woefully underweight, her coat was short and dull, and her eyes were so infected she could hardly see.



*Spirit and her new siblings. She'd lived her whole life at a puppy mill, breeding litter after litter, until the factory farm went out of business.*

"She was frozen, so scared she couldn't move," remembers Konnie Smith, a volunteer with Retrieve a Golden of Minnesota. Smith had driven four hours from her home in the Twin Cities to Jewel, Iowa, along with other volunteers to transport to Minneapolis 13 golden retrievers who were purchased at an auction with the hope of giving them a better life. Smith volunteered to take one of the dogs home with them.

In her three years on earth, the dog who would come to be known as Spirit had never had a chance to just be a dog. Raised in a puppy mill, she'd never been petted, never chased a ball, never been taken for a walk on a sunny afternoon. To her puppy mill owners, she wasn't a dog at all but a money-making breeding machine.

Spirit had spent her life in a dark, crowded place, freezing in the winter and sweltering in the summer. She'd been a cash cow for her owners, popping out two litters of puppies a year, all taken from her much too soon by a broker who most likely sold them to pet stores, all of the players taking a share of the profits.

Spirit was one of the lucky ones. Had her breeders not gone out of business, her life most likely would have been spent on a series of

auction blocks, sold to the highest bidder, moving from one puppy mill to the next until her reproductive years ran out. Then, like a perishable product that has passed its expiration date, she would simply have been discarded, and probably not in a humane way. After all, to her puppy mill owners, she was now just a worthless piece of property, not a sentient being with feelings. When the money stopped coming in, her time would have run out.

Smith helped put Spirit and the other dogs into clean crates for their ride to safety. She looked at Spirit and knew they had a difficult road ahead of them. This dog had never known humans to be her friends. After all she'd been through, would this dog ever be able to trust anyone? Smith was willing to give it a try.

For Spirit, that day in September marked the end of a long and painful journey, and the beginning of a brand new life.

## What's a puppy mill?

Animal welfare organizations estimate that there are between 4,000 and 5,000 puppy mills in the U.S.

"The smallest we've seen have anywhere from 15 to 20 breeding dogs, but I've heard of commercial breeders who have 1,000-plus breeding dogs," said Kelli Ohrtman, a research specialist for Best Friends Animal Society.

Puppy mills are breeding facilities that produce mostly purebred puppies in large numbers. Dogs are housed in crowded, filthy conditions without adequate food, water or exercise. They have little human contact and usually do not receive any veterinary care. When they can no longer have puppies, they're abandoned, dumped at a shelter or killed. Their puppies are sold mostly to brokers who market them to pet stores, or to the public via the Internet, newspaper ads or auctions.

The majority of these factory farms are concentrated in Pennsylvania and the Midwest – Missouri, Arkansas, Iowa, Kansas, Nebraska, Oklahoma.

"Puppy mills thrive in small rural communities ... and in agricultural towns with a livestock mentality," said Mike Fry, executive director of the Animal Ark No-Kill Shelter in Hastings, Minnesota. "These people see dogs as livestock."

Missouri, which has more mills than any other state, is by far the worst – a "black hole of despair," according to Fry.

Puppy mills have become the newest kind of factory farm. Indeed, the federal agency responsible for overseeing commercial breeders is the same agency that oversees livestock operations: the USDA.

### The USDA – understaffed and ineffective

The commercial pet trade is regulated (though, many would argue, not closely enough) by the U.S. Department of Agriculture's Animal and Plant Health

Inspection Services (APHIS). The USDA is responsible for administering the Animal Welfare Act, which requires breeders,

brokers and dealers to provide minimal basic care to their animals. Anyone who breeds pets for the wholesale trade or sells stock to other breeders must obtain Class A licenses, while brokers and dealers are required to obtain Class B licenses. This does not apply to breeders who sell directly to the public.

Under the Animal Welfare Act, breeders must provide nutritious food, clean water and housing that is kept dry and cleaned of waste. They must also provide adequate veterinary care and observe their animals daily. But the regulations still allow for keeping dogs in cages, albeit with "sufficient space to allow each dog and cat to turn about freely, to stand, sit and lie in a comfortable, normal position, and to walk in a normal manner."

How big is that? The USDA-APHIS has a formula. Each dog must be provided with a space calculated by dividing the mathematical square length of the dog plus six inches by 144. The dog must also be given just six inches of space above his head. So, a dog who is 40 inches long can be given just 14.69 square feet of space (roughly the

size of a bathtub).

Are the regulations enforced? Well, the USDA-APHIS is understaffed and, by most accounts, ineffective. According to USDA spokesman Darby Holladay, between 115 and 120 inspectors enforce the Animal Welfare Act and the Horse Protection Act. Holladay added that there are 15,000 licensees and registrants under the Animal Welfare Act alone, but he told *Best Friends* he couldn't comment on whether or not he thought the agency was understaffed.

Those 120 inspectors are responsible for monitoring not only thousands of breeders, brokers and dealers, but zoos, circuses and research facilities as well.

"We have the resources we have and we utilize those resources the best we can," Holladay said.

Claudine Wilkins, legislative coordinator for Best Friends, said it isn't nearly enough. "There's a ridiculous lack of investigators," she said.

In 1992, the USDA's Independent Office of the Inspector General found that the USDA-APHIS could not ensure the humane care and treatment of animals as required by the Animal Welfare Act. But Holladay says the USDA has worked to improve inspections since that 1992 report.

"The USDA has taken tremendous steps to insure compliance with the Animal Welfare Act since 1992," Holladay said.

The USDA conducted more than 16,000 inspections in 2005-06. Minor violations can often be corrected during an inspection, while others are given a date (usually six weeks to two months) to be corrected. If violations are not corrected by the time of a follow-up investigation, the USDA's general counsel can file a complaint.

The USDA levied more than \$1.5 million in fines in 2005-06, and

the agency's general counsel listed scores of complaints on alleged violations of the Animal Welfare Act. If animals are in extreme danger, the USDA works with local agencies to confiscate the animals.

## The USDA regulates the commercial pet trade but has "a ridiculous lack of investigators."



*Would you wish conditions like these on any animal? Inside a puppy mill in Holmes County, Ohio, that went out of business.*



## no more homeless pets

Holladay said, "We do that quite often."

But although commercial breeders who violate the Animal Welfare Act can receive a civil penalty of up to \$3,750 per day per violation, a glance at USDA inspection reports shows that some puppy millers have been able to tally up violation after violation, and still keep operating.

"There's such a lack of enforcement and so much recidivism," Wilkins said. "They're not being watched and regulated."

Fry agrees. "If the USDA were to levy those fines, they would have all the resources they need to regulate that industry."

Take the case of Gary McDuffee in Morrison County, Minnesota. Despite a five-year history of USDA violations, Morrison County commissioners still issued McDuffee a new conditional-use permit for a facility that could hold up to 500 adult dogs plus any number of puppies. Previous violations included cages that were too small, cages that were deteriorating and contained sharp and dangerous materials, failure to clean animals' enclosures, failure to label shipped animals as live cargo, and use of expired or outdated drugs or medications.

The McDuffee case drew nationwide attention and put the puppy mill issue back in the headlines. Animal welfare advocates, including those with Fry's organization, plan to appeal the ruling. Best Friends supporters have contributed \$20,000 to help with the appeal.

Holladay says the USDA does try to educate its license holders and bring them into compliance. But Fry says some breeders just aren't getting it. "You'd think after five years of noncompliance," he said, "they'd realize educating them wasn't working."

### Government funding for puppy mills

Not only is the USDA lax in its regulation of commercial breeding operations, but it has actually poured money into them.

The USDA has loaned the Hunte Corporation, a large Missouri-based dealer and the largest wholesaler of puppies sold in pet shops, more than \$4 million in recent years for expansion and upgrades. Hunte, which has grown 35 times its original size since 1991, is involved in the transport and sale of animals to 300 pet stores around the world.

When asked by e-mail if Hunte sold dogs from puppy mills, Hunte president Steve Rook said, "Puppy mill is a pejorative term created by animal rights groups. I do not intend to lend any credibility to those groups by using terminology that was created essentially as part of their propaganda. If you are writing an article and plan to use

that terminology, I have no interest in being part of the article."

Rook added that Hunte has no breeding operations, purchase puppies only from USDA-registered breeders and inspected breeders and from hobby breeders who have three or less intact females, and that all puppies in Hunte's care must pass an extensive examination performed by one of Hunte's seven licensed veterinarians.

According to USDA documents, however, Hunte has had violations in the past for keeping animals in enclosures that were too small. And last year, 60 puppies on their way to Northeast pet stores died when a Hunte truck caught fire, most likely caused by a malfunctioning ventilator fan.

In January 1995, the Office of the Inspector General recommended new legislation to strengthen and enhance APHIS's authority. Meanwhile, Rep. Dennis Kucinich (D-Ohio) says he's going to ask the House Committee on Government and Oversight Reform to conduct hearings on the USDA's failure to enforce the Animal Welfare Act as it pertains to commercial dog breeding and brokered facilities.

### Spirit comes home

Smith and her husband, Leon, carried Spirit's crate into their kitchen and removed the top. "She was shaking so bad, we laid a blanket on top of her, turned off the lights and left her alone."

For five whole days, Spirit lay in the fetal position and shook.

"She was so traumatized," Smith said. "It was 10 weeks before she would walk across the floor when we were in the room. She would not move out of her corner."

Smith and her husband took Spirit to the veterinarian for vaccinations and a general checkup. "We carried her in her crate and she pooped, peed and vomited all the way," Smith said. "She was so scared."

The veterinarian discovered that Spirit was pregnant.

Smith spent as much time as she could with Spirit, hoping she would learn to trust her. "I spent many, many hours sitting on the kitchen floor, head and body turned away from her, setting a key and chicken in front of her so she would learn that people mean good things to her," Smith said.

### Follow the money

When it comes to puppy mills the bottom line is profit: profits for the breeders, profits for the brokers, profits for the people who transport the puppies like cargo, and profits for the pet stores that sell them.

## Best Friends' Position on the Commercial Breeding of Pets

While four to five million animals of all breeds and species are dying in shelters for lack of homes, Best Friends Animal Society sees no reason for the breeding of pets for profit.

Specifically, Best Friends is opposed to puppy, kitten and bird mills, and to all forms of production breeding either for direct sale to the public or for the purpose of the distribution of pets of any species for retail sale.

Best Friends also opposes the intentional breeding of any animal for physical or behavior characteristics that are dangerous to the health of the offspring, the public or other animals. This includes breeding for artificially exaggerated features, such as dogs with extreme flat noses or cats with artificially stunted legs, as well as dogs bred to be aggressive toward humans and other animals.

Best Friends acknowledges that there are a small number of people known as breed fanciers who are devoted to a particular breed and produce a small number of litters to protect and promote that breed. Provided that these practices don't compromise the health of the animals or create a burden on shelters, Best Friends is not opposed to them. We also recognize that many of these individuals also run or participate in breed rescue groups, and require spay/neuter for all but a very few of the puppies they rear.

The business of puppy mills is said to be much like the illicit blood diamond trade.

Simply put, puppies, as well as cats, birds and ferrets, have become the new cash crops. "There's markup all along the way, from the puppy mill owner to the broker to the pet store owner," Fry said.

Ohrtmann agrees. "We talked to one breeder/broker who told us he sells his puppies for \$300 each to pet stores. I've seen puppy millers who make as little as \$75 on a puppy. It seems like the pet stores are making the most money from the deal, selling puppies for anywhere between \$500 and \$2,200."

At the bottom of the gravy train, the puppy mill owner has to produce a lot of puppies to turn a decent profit, so he breeds his dogs twice a year, despite the damage to the dog's physical health, and cuts costs by not hiring enough staff to adequately care for his dogs. Veterinary care is virtually nonexistent. And that is why so many mill puppies are suffering from all kinds of physical and behavioral problems by the time they reach the pet store.

Pet store puppies commonly have worms, upper respiratory infections, ear and eye infections, mange, coccidian and giardia, and some of these can be transmitted to humans.

Fry says that makes the problem a public health issue. "When you pack a bunch of animals together in horrible, stressful conditions, their immune systems are suppressed, which makes them susceptible to disease. You introduce any kind of pathogen and it can spread through the population very quickly. Then, you're dealing with large quantities of fecal material going into streams and groundwater and contaminating wells."

### It takes two

Puppy mills and pet stores depend on each other. It's estimated that 90 to 98 percent of dogs sold by pet stores come from puppy mills, according to a Best Friends study. The Pet Industry Joint Advisory Council estimates that 3,700 of the nation's 11,500 pet stores are selling dogs from puppy mills – about 300,000 to 400,000 puppies per year.

Petland is one of the largest pet store chains in the country. Its stores are independently owned and operated, and each franchisee is responsible for choosing pets sold in their store, according to Brian Winslow, Petland's director of business improvement.

In an e-mail to Best Friends, Winslow said Petland puppies and kittens come primarily from three sources: individuals in local communities who breed registered pets and offer occasional litters; pet rescue groups and local individuals who offer mixed-breed puppies and kittens for the store's adoption program; and licensed professional distributors who purchase registerable pets from professional breeders who are inspected and licensed by the USDA.

But some of the worst puppy mill operators have USDA licenses in their pockets. One of Petland's biggest suppliers is the Hunte Corporation.

Winslow says Petland has a constantly evolving "do-not-buy" list of breeders who have been determined to operate substandard facilities. And although "no one can guarantee the health of any living being," all Petland puppies and kittens go home with current vaccinations and a health warranty that covers infectious diseases

for 14 days and hereditary and congenital concerns for one year.

Fry and several of his colleagues once surveyed pet stores in their area to see where they got their pets. Fry says all the pet store officials they talked to said their pets came from small breeders. They asked for the USDA numbers on the puppies and then called the USDA to get the inspection papers. They discovered that the pet stores' puppies didn't come from small breeders at all, but from large commercial breeding operations. Fry calls it "consumer fraud."

"It's an industry that's based on lies and deception," he said. "People are buying sick dogs that cost them thousands of dollars because they've been lied to."

Only half the dogs bred at puppy mills even make it to the pet shops. The other half die from the mills' squalid conditions, hypothermia, starvation or the horrors of transport.

Today, thanks to the Internet, prospective buyers can order a puppy without having to leave the comfort of their living rooms.

Puppy millers are now marketing their animals on the Internet, and they don't even need a USDA license to do it. A Google search for "puppies for sale" pulled up more than 1.9 million entries.

The business of puppy mills is said to be much like the illicit blood diamond trade.



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*Luckily for the animals, a rescue group was ready and waiting when one Missouri puppy mill was closed.*



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*Volunteers were on hand to comfort and care for the many dogs rescued from the Missouri mill that closed down.*

### Best of show?

Though Spirit was in bad shape when Smith rescued her, she was still AKC-registered. All Spirit's puppy mill owners had to do was fill out an application and send it to the AKC with a check – \$20 per dog, or \$25 per litter plus \$2 per puppy.

The American Kennel Club name alone conjures up images of the crème de la crème of canines proudly prancing around a show ring with their handlers. Surely they all came from the finest of dog lines, their parents pampered and cared for by their loving owners.

Think again.

“The AKC makes between \$20 million and \$30 million a year off dog registrations,” Fry said. “A large percentage of that is from puppy mills. It's a cash cow. Without those registrations coming in, they would take a serious loss in income.”

According to the AKC's 2006 audit report, the AKC made more

than \$33 million from registration fees, accounting for almost half of the registry's \$72 million in total revenues that year.

Lisa Peterson, AKC's director of communications, said the AKC does inspect breeders. She said breeders who produce four to six litters a year are randomly selected for inspection. Breeders who produce seven or more litters a year are inspected every 18 months; they pass two inspections in a row, they get one inspection cycle, and then go back on the rotation. Peterson said the AKC, which has 14 inspectors, conducted about 5,000 inspections last year. “When our inspectors go in to inspect,” Peterson said, “breeders have to meet our standards of care for dogs.”

The AKC has fined and suspended breeders who use their registries who have been convicted for cruelty to animals (the average penalty is 10 years and a \$2,000 fine) or who have failed to comply with the AKC's Care and Conditions Policy, which usually brings a one-year suspension and a \$1,000 fine, according to AKC documents.

Yet the AKC has consistently come out against state legislation that would require the most basic care standards, such as Minnesota's Senate File 121 and House File 1046, as well as Pennsylvania's Governor Edward Rendell's efforts to strengthen that state's dog law.

“We oppose any legislation that takes away the right of the owner to determine what's best for their pets,” Peterson said.

On Fry's Animal Wise radio show, Peterson recently said that the AKC believes that dogs are the owner's property, since that is how they are viewed in the eyes of the law. And that belief, say animal welfare advocates, is one of the major problems.

Fry says that when it comes to legislation mandating basic care for animals, the AKC makes up “straw-man arguments that are completely without substance.”

Take the AKC's argument against Minnesota's Senate File 121, which would oversee breeders with six or more intact breeding female dogs.

“The AKC says that number is too low and arbitrary, but they miss the entire point that providing a minimal level of care is important, no matter how many animals you have,” Fry said. “I personally believe that if puppy mills had to apply the care, even if it's very minimal, they wouldn't be able to make a profit. The AKC isn't going to get their cut. It's really about money for them.”

**“The AKC misses the entire point that providing a minimal level of care is important, no matter how many animals you have.”**

### There ought to be a law

The lack of USDA oversight has encouraged some states to take upon themselves to strengthen laws governing commercial breeders.

In Minnesota, a state with 127 USDA-licensed kennels, including three of the nation's largest with more than 1,000 animals each, Senator Don Betzold has introduced Senate File 121, which sets basic standards of care for animals.

“You can't have animals in a cold barn with inadequate food and inadequate heat,” Betzold said. “You have to have some s

*Continued on page*

## no more homeless pets

Continued from page 22

of medical care for the animals. It's not being provided by some of these irresponsible breeders."

Beltzold says Minnesota currently has some of the weakest animal laws in the country. "Some of these animals are clearly being bred in filthy conditions," he said. He hopes to change that by having commercial breeders with six or more breeding animals become licensed by the state. The state will use the license fees to hire its own inspectors.

Senate File 121, as well as the House version, House File 1046, received opposition from even small breeders, who thought the bill was too detailed and would put them out of business. It's too late for the bill to be heard this year, but Beltzold hopes to introduce a less detailed version next year.

"If nothing else, it will simply adopt the USDA standards and then enforce them," he said.

In the meantime, he's hoping that better breeders will hop on board and support the bill. "We should be putting the irresponsible breeders out of business. I would think responsible breeders would want that. Consumers would have more confidence when they're buying puppies and kittens that they're getting healthy animals."

Ohio has a similar bill in the works. And in Pennsylvania, where puppy mills have been springing up all over, many of them in Amish country, Governor Rendell has proposed legislation that would strengthen criminal penalties for cruelty to animals. He's also proposed new regulations that would increase cage sizes; institute exercise requirements; set new standards for shelter, sanitation and temperature control; and require kennel owners to keep more detailed records.

Rendell also replaced every member of the state's Dog Law Advisory Board and created six new positions in the Bureau of Dog Law Enforcement. Having just one or two dog wardens per county, he

"It's pretty much the Wild West out there when it comes to puppy mills."

explained, "made it impossible for us to keep up with the conditions in all the kennels in Lancaster."

Animal welfare groups welcome these changes, but say they still really don't get to the heart of the problem. With more than 2,440 mills, Pennsylvania is known as the puppy mill capital of the East. Lancaster County became home to many of them when the Amish and the Mennonite populations needed a new revenue stream.

The Amish tradition is for fathers to hand down a portion of their land to their sons. In looking for a way to make a living off those smaller plots of land, they discovered puppy mills.

"They say, 'If we can't farm or we can't build furniture, we need to stack our produce,'" Wilkins said. The result? Cage upon cage of puppies stacked on top of each other.

But changes are also taking place at a more local level. In Minnesota's Sherburne County, commissioners were already working on an animal ordinance when things started heating up in Morris

County over McDuffee's permit. So commissioners decided to put some teeth into the ordinance to prevent puppy mills like McDuffee's from moving in.

"As far as we knew, we didn't have anything similar to a large dog breeding operation in Sherburne County," said Sherburne County planner Jon Sevald. "We're lucky we didn't have the problem. We wanted to deal with it before it became a problem."

Sherburne's new ordinance requires anyone within the unincorporated town-

ships with four or more dogs older than six months to get a county kennel license. And they can have no more than 40 dogs older than six months, and no more than 10 of those dogs can be breeding females. The kennel must be located on at least 2.5 acres. There are two kinds of permits – private permits for those who aren't breeding or boarding, such as sled dog owners, and commercial permits for those who are breeding or boarding. Commercial kennels are

### Why You Shouldn't Buy a Puppy from a Pet Store or Over the Internet

- It's estimated that more than 90 percent of dogs sold in pet stores come from puppy mills – large, commercial breeding operations where they're treated like inventory and stored in crowded, filthy cages with other dogs.
- In recent years, there has been an explosion of websites selling dogs from large, for-profit commercial breeders.
- There are no limits on breeding. Female dogs used for breeding are bred over and over again until their bodies give out. Then they're destroyed, sold for research or dumped at the local pound. Dogs may well be inbred, which means their puppies might have deformities.
- Dogs raised in substandard conditions often suffer from all kinds of physical ailments, which can result in large veterinary bills – and a lot of heartbreak – for their unsuspecting new owners.
- Puppies raised in large, commercial breeding operations are not socialized and often have behavioral problems.
- Because they suffer from diseases and behavioral problems, many of these animals end up in shelters, and are then euthanized. It's estimated that one in four animals in a shelter is a purebred.
- When you buy an animal from a pet store, you're feeding the pet trade – in which the main motive is to make profits for breeders, brokers and pet store owners, all at the expense of the dogs and their new owners.
- There is no reason to support the exploitive breeding of companion animals when millions of animals languish and die in public shelters every year.
- Instead of buying a puppy from a pet store or over the Internet, save an animal instead by adopting from a shelter or rescue group. PetSmart and Petco pet supply stores also sponsor adoption days. You can also search [petfinder.com](http://petfinder.com), [1-800-save-a-pet.com](http://1-800-save-a-pet.com) and [pets911.com](http://pets911.com), or google breed rescue groups in your area.

inspected at least once a year by a trained investigator from the sheriff's department.

Fry applauds Sherburne County's ordinance. "It's like Sherburne County put a sign on their border saying, 'No puppy mills allowed.'"

Other counties in Minnesota are looking at Sherburne County's ordinance as a possible model for enacting their own legislation.

But Sherburne County is a rarity.

"Many local municipalities don't have anything on their ordinance books that discusses breeders," Wilkins said. "It's pretty much the Wild West out there when it comes to puppy mills."

Wilkins says cities and counties should seize the opportunity to enact local laws regarding commercial breeding. They could use the revenue generated from issuing local commercial breeding permits to fund their animal control departments. She adds that the USDA and local municipalities need to work more closely together. "The state should make sure the applicant is in compliance with the local ordinance prior to giving him a license. Until they can comply with the local ordinances, the state department of agriculture should not be giving out licenses."

### What you, the consumer, can do

Ultimately, when it comes to shutting down the commercial pet trade, the solution lies with the consumer.

"If there were no demand," said Ohrtman, "there wouldn't be puppy mills, at least not on the scale that exists now."

So what can consumers do? Plenty.

First, don't ever buy a pet from a pet store or a newspaper ad, or over the Internet. Those are the places puppies from mills are likely to end up.

The local shelter should be your first stop, even when shopping for a purebred. It's estimated that one in four dogs in a shelter is a purebred. Breed rescue organizations are also a great resource.

"It takes a little more work," Ohrtman said. "It may mean going to a shelter three or four times until you find the right dog, or it may mean waiting for one from a breed rescue. But, when you adopt an animal, you're saving a life and you're not contributing to the problem."

Consumers can also write their legislators and their local paper to encourage them to enact stronger ordinances regulating commercial breeding, and to provide the necessary funding to enforce those ordinances.

### Spirit's journey to healing

It was one small step at a time, Smith says of Spirit's road to healing. At 10 weeks, a breakthrough.

"She walked across the floor and came and sat next to me. She also walked in from outside and went up the stairs to get treats with my other dogs." Spirit was learning to trust a human being for the

first time in her life.

Spirit gave birth to 11 puppies, and three of them were stillborn. It would be her last litter.

"She had such a difficult time with her whelping because she was in such bad physical shape and undernourished and scarred, and the pups were so big for our little girl," Smith explained. "There was one remaining dead puppy that she couldn't deliver, and she went in for an emergency spay the following morning."

The veterinarian told Smith he had never seen a dog's uterus so stretched.

This time, Spirit's puppies got to stay with her until they were old enough to go to their new owners, whom Smith checked out thoroughly.

Spirit continued to heal, both physically and emotionally, but she still carries bad memories that can't be erased.

**"We can't completely erase the first years of her life. But we can give her love, fun and a wonderful life."**



*Spirit in her new home with Konnie and Leon Smith.*

"She will always be more shy than a normal dog," Smith said. "We can't completely erase the first years of her life. We can't give her back the socialization that she missed as a puppy. We can't remove all her fears after being bred repeatedly and kept kenneled and mistreated. But we can give her love, fun and a wonderful life."

Today, Spirit lives a good life with the Smiths and their other two golden retrievers, Sam and Allie.

"She is a happy girl," Smith said. "She now rules the house. She runs around the backyard with the other dogs and plays with toys. She sits on the couch and has her tummy petted when we watch TV. She's first in line for treats and she sleeps in our bed at night. Life is good." 🐾







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NAIA Newsletter: October 5, 2007

PORTLAND, OR – A landmark study published last year in one of America's most respected scholarly journals provides powerful evidence that "feel-good" legislation – indiscriminate and/or unenforceable bans, as well as draconian sanctions applied to behavior that is already illegal – degrades respect for law and reduces compliance, while aggravating (or at best, failing to improve) the problems these laws were supposedly enacted to solve.

The study specifically addresses gun laws in the U.S. and worldwide. "Would Banning Firearms Reduce Murder and Suicide? A Review of International Evidence," by Don B. Kates and Gary A. Mauser: Harvard Journal of Law & Public Policy, vol. 30, pages 651-694. But its broader point supports a central reality that has long been recognized by the National Animal Interest Alliance: whether lawmakers target pet owners or gun owners, ill-conceived "feel-good" laws usually just make things worse. (Dr. Mauser has been a long-time supporter and a member of the NAIA.)

Researchers Kates and Mauser compared crime statistics from more than a dozen countries including Norway, Denmark, Greece, Italy, France, Germany, Russia, the United Kingdom, the U.S., and many others. Although their findings echoed two previous large-scale international studies, some observers found their conclusions surprising. According to Kates and Mauser, "Many people think that nations with more firearms will have more murder and that banning firearms will reduce murder and other violence – If anything it was the reverse."

Specifically, the two scholars – Kates is an American constitutional lawyer; Mauser is a Canadian academic – said that "banning guns to the general public increases people's vulnerability and fails to reduce violence because the law-abiding citizenry are victims of violent crime, not perpetrators."

Kates and Mauser's paper is online here:

[http://www.law.harvard.edu/students/orgs/jlpp/Vol30\\_No2\\_KatesMauseronline.pdf](http://www.law.harvard.edu/students/orgs/jlpp/Vol30_No2_KatesMauseronline.pdf)

"For more than a decade, experts at the NAIA and its friends and supporters have seen the identical dynamic

played out with regard to animal control legislation in the U.S." said NAIA national director Patti Strand, a recognized expert on animal issues. "Too often, well-meaning American lawmakers looking for answers to animal control problems have fallen prey to attractive quick-fix solutions and feel-good laws offered by activist groups. Many such groups have considerable media savvy, and do a good job focusing media attention on their view of the issue, but they seldom have any effect on the problems they claim to address. Worse, these groups often pit lawmakers against their own constituents, painting pet owners and breeders as the problem or even the enemy – thus discouraging the sort of dialog between regulators and stakeholders that is so necessary for drafting effective laws. This process not only exacerbates the original problem, but frequently adds entirely new and unnecessary problems to the mix."

The legislative backfire gallery – laws intended to achieve an admirable goal such as reducing neighborhood nuisances, stray cats or discarded dogs but which often achieve the opposite effect – include arbitrary pet limit laws, bans against specific breeds, penalties against feeding neighborhood cats, outlawing elective veterinary procedures like debarking and declawing or charging exorbitant licensing fees for intact animals. In addition to requiring unachievable levels of enforcement, such laws tend to push responsible pet owners underground or out of ownership, neither of which is good for the community; and they also have little effect on irresponsible owners who will continue outside the licensing system.

Bans against specific breeds produce relinquishment and euthanasia of well-behaved pets of the targeted breeds, while irresponsible and criminal pet owners just switch to new breeds and continue abusing their dogs. Penalizing home owners for feeding neighborhood cats assures that more feral cats will be euthanized. Banning elective veterinary procedures often converts a household or neighborhood concern into a shelter statistic, as pet owners give up on solving problem behaviors. Charging exorbitant license fees for intact dogs and cats causes responsible breeders to cut back or opt out and thereby reduces the best source of home-raised, healthy, well-socialized puppies and kittens. Yet it won't affect breeders who don't license in the first place, the ones most likely to create castaway pets. Ironically, laws that push people and their pets out of the licensing system also hamper the principal function of licensing: that of assuring rabies vaccination compliance. And unreasonable, unenforceable animal control laws erode community support for animal control.

Although such regulations may be well-meant, the unintended consequences have striking parallels to the gun control study by Kates and Mauser. Their Harvard study said: "Banning guns to felons, violent misdemeanants, juveniles and the insane (which our laws already do) is a good idea in general, though such laws are very difficult to enforce. Disarming those who only want to defend themselves, however, is a surefire road to empowering criminals at the expense of the innocent." The result in many cases increases the crime rate rather than decreasing it, simply because, for the criminals, disarming the population increases opportunity and decreases risk.

But how does a disarmed community, becoming more vulnerable to criminal activity relate to a community that adopts burdensome licensing fees, breeding restrictions or bans on pets?

The lawmakers' missteps in each instance have common factors, both relating to the effect on the community as a whole. Because they don't distinguish between good and bad gun owners, gun bans diminish the freedom of law-abiding gun owners, while leaving the criminal gun owners as free as they were before the ban to continue their illegal activities; thus making gun-related crime – the original target – worse.



Unrealistic pet laws diminish the freedom of law-abiding pet owners, chase the best of them out of the supply chain, and leave scofflaw pet owners as free as they were before the imposition of restrictions to continue as an unlicensed or uncontrolled problem segment of the pet owner population. Just as law-abiding gun owners cause no problems, law-abiding pet owners cause none, either. Yet, both are hit with restrictions while the causes of problems in each case find new opportunities: one to commit armed crimes unopposed by any force, and the other to fill the void of puppy and kitten demand as responsible home-based breeders – dedicated breed enthusiasts in particular – cut back or quit.

The goal of some pet laws is to reduce surplus shelter animals by eliminating irresponsible breeding, but if only the most conscientious breeders with good placement practices obey the law, then the net result of the law is to reduce puppies and kittens from the best, most law abiding sources. It doesn't reduce problem pet owners who cause neighborhood problems, abuse their animals or produce dogs and cats that end up in shelters. In fact, a new black-market for puppies and kittens has developed to supply the demand that formerly was met by responsible, law-abiding breeders who've been forced out of breeding by unreasonable laws and fees. [http://www.cbp.gov/xp/CustomsToday/2006/jun\\_jul/other/puppies.xml](http://www.cbp.gov/xp/CustomsToday/2006/jun_jul/other/puppies.xml)

The result of this is a threefold whammy: 1) unlicensed activities continue at the same rate (or increase as the human population increases); 2) a significant number of pet owners who want to be law-abiding citizens give up banned breeds, quit feeding neighborhood cats or terminate valuable breeding programs rather than operate illegally or cope with unreasonable laws and increased fees; and 3) because demand for many beloved breeds does not decline when a law is passed, people who know little about breeds or breeding move into the void to fill demand. Unlike the overregulated compliant breeders of the past who were dedicated to improving and preserving breeds and promoting responsible pet ownership, and belonged to associations like the American Kennel Club (AKC), the United Kennel Club (UKC), Cat Fanciers Association (CFA), The International Cat Association (TICA) and many other associations organized for service and other working dogs, the newcomers appear motivated mostly by the opportunity to make a quick buck. They lack knowledge of basic husbandry and health, and don't have good placement practices.

So along with encouraging pet relinquishment, feel-good laws guarantee that good breeding and placement practices will be replaced with poorer practices, and in the long term they assure an increase in shelter animals – one of the original target problems that the new restrictions were supposed to solve. Is it any wonder, then, that best estimates suggest that only about 30% of pets targeted by these ordinances are ever licensed, even though both human and pet populations are rising?

Instead of recognizing pet ownership as a widely held, positive community value and working with the pet owning community to create reasonable, enforceable laws, attempts to license the remaining 70% of household pets have focused on the empty threats of enforcing greater restrictions and heavier penalties. Empty, because funding for increased enforcement usually does not exist. So while this tactic may scare a few owners into grudging compliance, it also causes a corresponding loss of cooperation and support from the group that was already compliant. Following passage of draconian anti-breeder laws, shelter populations in the area rise.

Passing feel-good laws is akin to the old joke about the tavern drunk who was looking for his lost keys under the streetlight, rather than down the block where he actually lost them – because, he said, "the light was better." Passing laws that strike at easy targets (the law-abiding, responsible pet owner) does little to solve

the problems of noisy, abandoned or dangerous animals, euthanasia rates, and the like. It mainly alienates the pet-loving population from animal control agencies charged with enforcement, and sets up a needless conflict between groups (i.e. state or local government vs. dog and cat enthusiasts, kennel and cat clubs) that should be allies.

The good news is that some local and state governments have understood these commonsense arguments (backed by reams of studies and statistics) and have avoided passing "feel-good" laws in favor of smart, targeted legislation that actually addresses problems and puts pet owners and animal control enforcement on the same side.

NAIA applauds this enlightened legislative approach and has, in fact, helped lawmakers in numerous jurisdictions to craft superior regulations. Across the nation, NAIA has helped replace breed-specific language with language targeting at risk behavior and irresponsible and abusive pet owners. In Oregon we helped pass a landmark dangerous dog law and in Monroe County, Florida, we worked with residents and local government to replace an unenforceable \$500 intact animal fee with a \$35 fee, removed arbitrary restrictions on animal limits, and made other changes that vastly increase chances for compliance and cultivate goodwill and cooperation between citizens, lawmakers and animal control officials.

Over the course of the last 16 years, NAIA has played a role, directly or indirectly, in hundreds of positive legislative outcomes. We have served on national, state and local task force bodies, on blue ribbon panels, and on animal welfare, and fish and wildlife committees aimed at improving public policy affecting animals, animal ownership and the natural environment. In many cases, NAIA and its members have succeeded in launching precedent-setting initiatives. We have helped draft model laws, created reasonable standards for dog parks, removed arbitrary limit laws, improved consumer-protection laws, backed successful trap-neuter-return programs and generally helped make animal-welfare and animal-control legislation more reasonable and effective.

Similar to the gun ban study, our research, as reflected in the NAIA Guide to Pet Friendly Ordinances, shows that to be successful, ordinances must distinguish between responsible and irresponsible pet owners. They must offer support and incentives to encourage and reward responsible pet ownership; and they must enforce reasonable penalties against irresponsible pet owners to bring them into compliance.

"Lawmakers don't have to reinvent the wheel and they certainly don't have to emulate the failed model of gun-control legislation that ends up punishing the innocent, creating more criminals, and empowering precisely the wrong people," said NAIA's Strand. "The successes of well-researched animal regulations adopted in recent years by numerous jurisdictions including Oregon and Florida mentioned above, will translate beautifully into every city and state in this country."

"We at NAIA stand ready to assist any state or local lawmaker, as we have done for the last 16 years, with expert consultation and practical information about what works and what doesn't," says Strand. "NAIA urges government officials and animal supporters to reject 'feel-good' laws in favor of proven regulatory approaches that actually 'do good' for the pets and pet owners of America."

###

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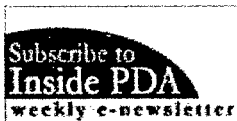
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## Dog Kennel Licensing

### Law

Any person who keeps or operates a Class I, II, III, IV or Class V kennel, Boarding Kennel Class I, II, III, or Non-Profit Kennel shall, on or before January 1 of each year, apply to the Department for a Kennel License. The application forms and kennel licenses shall be as designated by the Secretary. A separate license shall be required for each type of kennel and every location at which a kennel is kept or operated. A kennel license is required to keep or operate any establishment that keeps, harbors, boards, shelters, sells, gives away or in any way transfers a cumulative total of 26 or more dogs of any age in any one calendar year. All kennel licenses shall expire on December 31. When two or more licensed kennels are operated by the same person at the same location, each kennel shall be inspected and licensed for each use. <sup>1</sup>

<sup>1</sup>Excerpts - ACT 225, The State Dog Law Section 206 (PDF)

### License Fees

#### Private, Pet Shop, Research, Dealer, or Breeding Kennels

K1: Cumulative total of 50 dogs or less per year	\$75 per year
K2: Cumulative total of 51 to 100 dogs per year	\$200 per year
K3: Cumulative total of 101 to 150 dogs per year	\$300 per year
K4: Cumulative total of 151 to 250 dogs per year	\$400 per year
K5: Cumulative total of 251 dogs or more per year	\$500 per year

#### Boarding Kennels

Boarding K1: Capacity to accommodate 1 to 10 dogs at any time	\$100 per year
Boarding K2: Capacity to accommodate 11 to 25 dogs at any time	\$150 per year
Boarding K3: Capacity to accommodate 26 or more dogs at any time	\$250 per year

#### Nonprofit Kennels

Non-Profit Kennel	\$25 per year
Non-Profit Kennels operated by approved medical and veterinary schools and nonprofit institutions conducting scientific research are required to register for a kennel license	FREE

### How to Apply

1. Read and become familiar with PA Kennel Regulations (PDF)
2. Contact your county Dog Warden (you can find your county Dog Warden In the Warden Listing)
3. Your county Dog Warden will assist you with the process of getting your kennel licensed

### Please Note

There currently is no application fee, please do not submit any funds with the application. The warden will need to perform an inspection prior to the sending of any fees to verify the class you are applying for. Kennel applications can be submitted, but will not be approved until a passing inspection has been performed by a warden.





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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: MEMBERS OF THE ASSEMBLY COMMITTEE ON CONSUMER PROTECTION AND PERSONAL PRIVACY AND MEMBERS OF THE SENATE COMMITTEE ON SMALL BUSINESS, EMERGENCY PREPAREDNESS, WORKFORCE DEVELOPMENT, TECHNICAL COLLEGES AND CONSUMER PROTECTION

FROM: <sup>SG</sup> Scott Grosz, Staff Attorney

RE: Assembly Substitute Amendment 1 to 2007 Assembly Bill 567

DATE: January 7, 2008



This memorandum discusses the substantive provisions of 2007 Assembly Bill 567 and Assembly Substitute Amendment 1 to 2007 Assembly Bill 567, relating to the sale of dogs and the regulation of certain dog breeders.

### **LICENSURE REQUIREMENTS**

#### **Assembly Bill 567**

Assembly Bill 567 requires commercial dog breeders, defined as individuals who are in the business of breeding dogs and sell 60 dogs in a year or have at least eight breeding female dogs, to be licensed by the Department of Agriculture, Trade and Consumer Protection (DATCP). License fees are as follows:

1. For a person who sells or offers to sell fewer than 100 dogs in a year, \$75.
2. For a person who sells or offers to sell at least 100 but fewer than 150 dogs in a year, \$100.
3. For a person who sells or offers to sell at least 150 dogs in a year, \$125.

The bill requires DATCP to promulgate rules establishing minimum standards and requirements for commercial dog breeders. A commercial dog breeder must sign an affidavit stating that he or she complies with the DATCP rules and holds a current sellers permit under s. 77.52 (9), Stats. (sales tax). A commercial dog breeder must also submit an annual report to DATCP describing the number of dogs kept on the date of the report, the number of dogs sold in the preceding calendar year and the number of

dogs for which a person received a remedy under the provisions of the bill. If an annual report indicates that 15% or more of the dogs sold during the preceding year are dogs for which a purchaser received a remedy under the provisions of the bill, DATCP must revoke the commercial dog breeder license and the breeder is ineligible for a license for 12 months from the date of revocation.

The bill permits local law enforcement agencies to conduct investigations regarding violations of the licensure provisions of the bill and report their findings to DATCP. DATCP may inspect a breeding facility for compliance only after receiving a report from local law enforcement or a complaint from an individual alleging violation of the licensure provisions.

The bill prohibits a person who sells dogs at retail from purchasing a dog from an unlicensed commercial dog breeder. A person who violates the licensure provisions, commercial dog breeder rules promulgated by DATCP, or who falsifies information on a license application is subject to the following penalties:

1. For a first offense, a forfeiture of not more than \$3,000.
2. For a second offense committed 365 days or more after conviction for a first offense, a fine of not more than \$5,000 or imprisonment for not more than 30 days or both.
3. For a second offense committed fewer than 365 days after conviction for a first offense, for a third offense, or for a subsequent offense, a fine of not more than \$10,000 or imprisonment for not more than 90 days or both.

If a dog breeder does not have a license at the time of a first or second conviction, the breeder is ineligible for a commercial dog breeder license for 12 months following the conviction. If a dog breeder convicted of a first or second violation has a commercial dog breeder license, the breeder is ineligible for a new license for a period of 12 months from conviction. A commercial dog breeder who is convicted of a third violation under the bill is permanently ineligible for future licensure as a commercial dog breeder.

### **Assembly Substitute Amendment 1**

The substitute amendment alters the definition of a commercial dog breeder to a person who is engaged in the business of breeding dogs and who either sells or offers to sell at least 50 dogs a year.

### **PURCHASER PROTECTION AND REMEDIES**

#### **Assembly Bill 567**

The bill provides that the purchaser of a covered dog is entitled to a remedy if the dog meets certain conditions or dies under specified circumstances and a veterinarian certifies that the dog was unfit for sale. A covered dog is defined as either a dog sold to a purchaser by a commercial dog breeder or a dog sold to a purchaser by a person other than a commercial dog breeder if the dog is not more than 18 months of age at the time of sale. A purchaser is defined as a person who buys a dog as a pet.

A purchaser of a covered dog is generally entitled to a remedy if any of the following apply:



1. The dog dies before the 366th day after the day on which the purchaser received the dog from the seller, a veterinarian certifies that the dog was unfit for sale due to a condition that is congenital or hereditary, and, if the seller complied with notice requirements the purchaser presents the certification to the seller before the 373rd day after the day on which the purchaser received the dog from the seller.
2. The dog shows symptoms, before the 366th day after the day on which the purchaser received the dog from the seller, of a condition that is congenital or hereditary, a veterinarian certifies that the dog was unfit for sale due to that condition, and, if the seller complied with notice requirements the purchaser presents the certification to the seller before the 373rd day after the day on which the purchaser received the dog from the seller.
3. The dog dies before the 15th day after the day on which the purchaser received the dog from the seller, a veterinarian certifies that the dog was unfit for sale, and, if the seller complied with notice requirements the purchaser presents the certification to the seller before the 22nd day after the day on which the purchaser received the dog from the seller.
4. The dog dies before the 15th day after the day on which the purchaser received the dog from the seller, a veterinarian certifies that the dog died from causes other than an accident or injury suffered after the purchaser received the dog from the seller, and, if the seller complied with notice requirements the purchaser presents the certification to the seller before the 22nd day after the day on which the purchaser received the dog from the seller.
5. The dog shows symptoms of an injury, defect, or illness before the 15th day after the day on which the purchaser received the dog from the seller, a veterinarian certifies that the dog was unfit for sale due to the injury, defect, or illness, and, if the seller complied with notice requirements the purchaser presents the certification to the seller before the 22nd day after the day on which the purchaser received the dog from the seller.

A purchaser entitled to a remedy due to the death of a covered dog may obtain a refund of the purchase price or another dog of equivalent value and reimbursement of veterinary fees. A purchaser who is entitled to a remedy due to an injury, defect, or illness may do any of the following:

1. Return the dog and receive a full refund of the amount that the purchaser paid for the dog, including sales tax, and reimbursement for veterinary fees incurred with respect to the dog.
2. Retain the dog and receive reimbursement for veterinary fees incurred with respect to the dog plus the future cost of veterinary fees for curing or attempting to cure the dog, as estimated in the veterinarian's certification.
3. Return the dog and receive another dog of equivalent value that is selected by the purchaser plus reimbursement for veterinary fees incurred with respect to the dog.

The bill limits the total amount of reimbursement for veterinary fees under the remedy provisions to twice the amount the purchaser paid for the dog, including sales tax.

In order to receive a remedy, the purchaser must provide the seller with a notice including the required veterinarian certification and the purchaser's choice of remedy. The seller must provide the

purchaser with the chosen remedy within 10 days of receipt of such notice or the purchaser may commence an action against the seller. The court may award twice the amount of damages, together with costs including reasonable attorney fees, under such an action. The person who sold the dog to the seller may be held liable to the seller if the seller is required to provide a remedy under the provisions of the bill.

### **Assembly Substitute Amendment 1**

The substitute amendment defines a covered dog as a dog sold to a purchaser by a commercial dog breeder or a dog sold to a purchaser by a person other than a commercial dog breeder, a humane society, or rescue group if the dog is not more than 12 months of age at the time of sale.

In order to be eligible for a remedy under the substitute amendment, if the dog dies, a veterinarian must certify that the dog was unfit for sale, that the dog's death was not caused by an action or inaction of the purchaser and that the cause of death was not due to a condition that the seller disclosed in advance. If the dog shows symptoms of a condition, the veterinarian must certify that the infirmity is not due to a condition that was disclosed to the purchaser in advance of the sale. Communicable disease is added to accident and injury as a potential cause of death after the time of sale.

The substitute amendment permits a seller who receives a veterinary certification indicating that a dog was unfit for sale three days to request an examination or an autopsy of the dog by a veterinarian of the seller's choosing. If the seller makes such a request, the seller is not required to provide the purchaser with the chosen remedy until the 10<sup>th</sup> day after the day the dog is made available for examination or autopsy. If the purchaser does not comply with this request, the purchaser is not entitled to a remedy.

The substitute amendment alters the remedy option for the purchaser to receive another dog of equivalent value to another dog of equivalent monetary value, if another dog is available.

The substitute amendment provides that a purchaser who prevails under the cause of action provision may only receive those damages which are incurred by the purchaser.

### **INFORMATION REQUIREMENTS**

#### **Assembly Bill 567**

When a person sells a dog as a pet, they must provide a written description of any vaccinations and any treatments for parasites that the dog has received. They must also provide a description of the remedies available for the sale of a dog that is unfit for sale and obtain the signature of the purchaser on a copy of the remedy disclosure document. The seller must retain a copy of the signed document for inspection by DATCP. When a person sells a dog for resale as a pet, that person must provide the buyer with a written description of any vaccinations and any treatments for parasites the dog has received. A person who fails to provide the required information is subject to a forfeiture of not more than \$500.

**Assembly Substitute Amendment 1**

Under the substitute amendment, the disclosure and signature requirements for the description of remedies only apply to the sale of covered dogs. In addition, the substitute amendment provides that when a person sells a dog as a pet in general, the seller may provide a written description of any congenital or hereditary conditions that are specific to the dog's breed or of the dog's injury, defect, or illness.

**PENALTIES FOR THE SALE OF UNFIT DOGS**

**Assembly Bill 567**

A person who knowingly sells a dog that is unfit for sale is subject to the following penalties under the bill:

1. For a first offense, a forfeiture of not more than \$3,000.
2. For a second offense committed 365 days or more after conviction for a first offense, a fine of not more than \$5,000 or imprisonment for not more than 30 days or both.
3. For a second offense committed fewer than 365 days after conviction for a first offense, for a third offense, or for a subsequent offense, a fine of not more than \$10,000 or imprisonment for not more than 90 days or both.

The bill takes effect on the first day of the 25<sup>th</sup> month beginning after publication.

**Assembly Substitute Amendment 1**

The general penalty provisions of the substitute amendment only apply if the person knowingly sells a dog that is unfit for sale and does not disclose that the dog is unfit for sale.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

DWS:ksm:jal:ty