

## **HR 5434/S 3424 Puppy Uniform Protection and Safety Act (PUPS)**

[Bill text and cosponsors](#)

H.R.5434 Sponsors: Representatives Sam Farr [CA-17]; James Gerlach [PA-6]; Lois Capps [CA-23]; Bill Young [FL-10] (introduced 5/27/2010)

S.3424 Sponsors: Senators Richard Durbin [IL]; David Vitter [LA]

SAOVA POSITION: OPPOSE

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The Sportsmen's & Animal Owners' Voting Alliance (SAOVA) is OPPOSED to HR 5434/S 3424 Puppy Uniform Protection and Safety Act (PUPS) in its entirety.

### **BACKGROUND**

For over a decade the Humane Society of The United States (HSUS) and other anti-animal use groups have introduced federal legislation to restrict breeding of dogs and/or cats at the retail level. Their proposed legislation would amend the Animal Welfare Act (AWA) with strict regulations on retail breeders.

A precursor of PUPS would have required the federal government to set standards for when to breed and how frequently to breed dogs. Currently the Animal Welfare Act (AWA) does not regulate breeding practices for any species regulated under the Act, and this would have set a dangerous precedent giving the federal government control over the breeding of domestic animals. No other species has a pre-breeding regulation in place.

Subsequent versions relied on establishing a numerical threshold of numbers sold and litters bred as criteria for adding retailers into the AWA commercial dealer regulations. All versions of proposed regulation reverse a long-standing, court tested basis for commercial pet business licensing and regulation. Bill proponents continue to state their legislation "closes a loophole" in federal law although the AWA was never intended to apply to retail, in-home breeders.

PUPS 2010 adds regulation with a newly created "high volume breeders" classification based on sales, and proposes regulation of breeders who sell primarily via the internet. Stated purpose is to regulate breeders currently escaping inspection and oversight.

### **CURRENT AWA REGULATION AND INSPECTION**

The Animal Welfare Act (AWA) requires that minimum standards of care and treatment be provided for certain animals bred for commercial sale, used in research, transported commercially, or exhibited to the public. The AWA is enforced by the Animal Care (AC) program and Marketing and Regulatory Programs Business Services, Investigative and Enforcement Services (IES) within USDA's Animal and Plant Health Inspection Service (APHIS).

In May, 2010, USDA's Office of Inspector General (OIG) conducted a review of APHIS' regulation of problematic dog dealers. The report documented and detailed known licensed breeders and brokers, many of whom had been previously cited for violations of the AWA.

The report concluded the enforcement process of APHIS Animal Care Unit (AC) was ineffective against problematic dealers. AC's enforcement process was ineffective in achieving dealer compliance with AWA and regulations, which are intended to ensure the humane care and treatment of animals. The agency believed that compliance achieved through education and cooperation would result in long-term dealer compliance and, accordingly, it chose to take little or no enforcement action against most violators.

The report found further that many inspectors did not adequately describe violations in their inspection reports, support violations with photos, or correctly report all repeat or direct violations (those that are generally more serious and affect the animals' health). Consequently, some problematic dealers were inspected less frequently.

Additionally, inspectors miscalculated and misused guidelines thereby incorrectly assessing minimal fines that did not deter violators.

#### IMPACT OF PROPOSED PUPS BILL

PUPS adds new problematic definitions to the existing AWA. Under the new definitions a breeding female dog means an intact female dog aged 4 months or older. It is virtually impossible for a 4 month old female dog to be capable of reproduction and therefore should not be part of this definition. This definition would compel breeders to spay at 4 months in order to keep a dog of this age on the premises without having it count toward the numeric criteria for licensing. Federal government would be well advised to avoid such standard-setting specifics as current research supports findings that early spay/neuter can be deleterious.

PUPS creates the new definition "high volume retail breeder". A breeder only has to have "interest or custody" of one breeding female dog to fall under the first test of this criteria. The second criteria includes anyone who "sells or offers for sale, via any means of conveyance (including the internet, telephone, or newspaper), more than 50 of the offspring of such breeding female dogs for use as pets in any 1-year period.

The "50 offspring" are not defined by age or as being from litters owned by the breeder or as being personally owned by the breeder. This definition will include puppies, young adults, spayed dogs; older dogs being retired from the breeding program; previously sold dogs returned and resold. The definition will encompass rescue organizations, including those that sell from their homes and shelters, on Petfinder (internet), and similar venues. The 50 sales definition could be interpreted to include public animal control facilities, veterinarian clinics with adoption centers, and any nonprofit groups organized specifically for rescue and re-homing/adoption of unwanted dogs.

As with all previous versions of HSUS introduced bills to break the commercial / retail barrier, PUPS subjects home breeders and rescuers of dogs to USDA licensure and its 60+ pages of regulations. PUPS misleads legislators and the public into thinking this legislation will put an end to puppy mills when in fact PUPS will serve to eliminate many fine sources of home-bred puppies and close down rescue efforts.

#### SUMMARY

The inadequacy within APHIS inspection units and lack of proper enforcement cannot be tolerated. The OIG report focused on the agency's lack of enforcement even against facilities that continually ignored minimum care standards. OIG faulted animal care inspection units for their delay in confiscating dogs from repeat offenders where facility conditions had escalated to grave conditions. The report documented an undeniable need for APHIS/Animal Care to perform its duties as charged under the AWA to ensure humane care and treatment of animals.

APHIS announced a plan to improve consistency in Animal Care inspectors' approach for inspections, and to provide more complete guidance to its employees. The corrective plan of action includes increased training to all inspectors on citing and documenting violations; improving the quality of inspections; addition of trained personnel; removal of "no action" as an enforcement option; and a revised table of increased penalties.

The OIG report's main focus is correction of APHIS/AC methods of enforcing existing law. Fourteen recommendations were offered and the report only included one recommendation to expand the scope of APHIS enforcement responsibility. Recommendation 12 proposed that the Secretary seek legislative change to exclude internet breeders from the definition of "retail pet store," and require that all applicable breeders that sell through the internet be regulated under AWA.

As written in PUPS, total exclusion of internet breeder/sellers from the existing AWA exemption is reactive and overly aggressive. While the OIG report cites examples gleaned from media of disreputable sellers and consumer complaints, much further study and analysis is needed regarding these claims before any legislation is enacted. Additionally, PUPS goes beyond this OIG recommendation by adding sellers who utilize newspapers and telephone or any means of conveyance. Expanding federal regulation to this level of detail is unrealistic, excessive, and unenforceable.

As written, PUPS will negatively impact many in-home breeders who cannot comply with commercial standards or who refuse to have their rights to privacy invaded by federal inspectors. PUPS will drive many midsize producers of pets and working dogs away from their hobbies and livelihoods. PUPS poor language and arbitrary use of numbers for licensing criteria will negatively impact even the rescue community.

There is no substantive evidence to prove that expansion of the existing AWA will improve animal welfare to a higher level than properly enforcing current regulations and licensing those kennels operating commercially without USDA licensure.

Considering the substantial overhaul shown to be needed within the Agency's inspection units and looming budget cuts for FY2011, major expansion of current regulatory responsibilities would not seem to prudent.

The Puppy Uniform Protection and Safety Act (PUPS) should be opposed in its entirety.

#### RELATED DOCUMENTS

[Illinois Federation of Dog Clubs and Owners \(IFDCO\) Position Statement on PUPS](#)

[Office of Inspector General. Animal and Plant Health Inspection Service Animal Care Program Inspections of Problematic Dealers](#)

[APHIS' Enhanced Animal Welfare Act Enforcement Plan. June 2010](#)

[House Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Subcommittee FY2011 Bill](#)