

FARM BILL ALERT!

The Issue.

A proposal to amend the federal Animal Welfare Act (AWA) is poised for Senate passage after being submitted by Senator Richard Durbin (D-IL) in the form of an amendment to the “Farm Bill” (H.R. 2419). It is one of numerous (unrelated) provisions being included in SA 3500 and would amend the AWA in several different respects. Some of the provisions of this initiative mirror the Pet Animal Welfare Statue (PAWS) on which PIJAC testified during the last Congress, but others are new, principally those creating a restriction against importing dogs and cats for the pet trade and certain persons selling dogs and cats directly to the public.

The Impact.

THIRD PARTY INSPECTORS

One of the controversial provisions of PAWS was institution of a third-party inspector system; a concept that was carried over into the new legislation. USDA would be required to adopt regulations providing for certification of nonprofit organizations “that the Secretary [of Agriculture] determines to have standards and inspection protocols that are at least as protective of animal welfare as those promulgated by the Secretary” for those licensed under the AWA. When and if one or more such organizations are certified, USDA licensees could elect to be inspected by the third-party inspector rather than USDA. The proposal explicitly provides that no regulated person would be required to accept third-party inspection. The proposal carries various requirements for certified third-party inspectors, including a requirement to recertify every three years, submit an annual report summarizing inspection activity, and to notify the Secretary of any person they inspect whose conduct places the health of an animal in serious danger or who fails to comply with established standards. It is unclear what standards might qualify as acceptable under a third-party inspector; the language of the legislation only requires that the standards be “at least as protective,” a subjective mandate that could permit different standards as long as they are deemed to be equal in effectiveness.

RETAIL PET STORE DEFINITION

A modification of the “retail pet store” exemption would change who must be licensed under the AWA. Currently, retailers generally do not have to be licensed under the Act. USDA has long included in the definition of a retail pet store all retailers of dogs and cats (those selling pets directly to the public and not at wholesale), an interpretation that has been upheld by the courts. However, **this legislation explicitly excludes people that are now included in the definition, such as (1) people who breed dogs or cats for sale and (2) people who import dogs or cats for sale. These people would now become regulated under the Act.**

A separate *exemption* would exclude breeders from regulation as long as they sell only at retail (not to others for resale), do not **import** dogs and cats for resale, and sell no more than 25 dogs and cats not bred on their premises **or** no more than **25** dogs and cats that they do breed on their premises, or the dogs or cats from no more than 6 litters (whichever is greater). An “**importer**” is defined as anyone who “in commerce, for compensation or profit, delivers for transportation, or transports, buys, sells or negotiates the purchase or sale of any dog or other animal for research, teaching or exhibition; any dog or cat at wholesale or retail; or any dog or cat imported into the U.S. for resale” except that it also includes “anyone importing a dog or cat for resale.” **This literally would mean that persons who sell only domestically bred animals would be characterized as an “importer” although it is not clear that was the intent.** Further, animal shelters, rescue organizations, or any other person “that does not operate for profit” would be exempt from regulation. This means that shelters or rescue organizations that import dogs or cats for the purpose of resale, and net profits from that operation, would be exempt from regulation as long as the organization is characterized under law as a ‘non-profit.’ The existing retail pet store definition would also be revised to require that a retailer maintain “physical premises” open to the public, from which the retailer directly sells pet animals. This means that internet retailers would become

regulated, unless they also maintain physical premises from which they sell to the public (i.e. a “brick and mortar” pet store that also sells dogs or cats via internet).

IMPORT BAN FOR PET TRADE

In addition to the requirement that importers become regulated, the legislation would strictly prohibit imports of dogs for resale that are under 6 months of age. **Because shelters and rescue organizations are exempt, they would still be legally permitted to import and sell puppies.** The effect of this ban is that residents of the state of Hawaii would no longer be able to buy pet puppies that weren’t actually bred in the state since, as a rabies-free state, Hawaii does not permit imports of puppies bred elsewhere in the United States. Currently, imports of puppies into Hawaii for resale come exclusively from rabies-free countries. **PIJAC** has had ongoing discussions with the sponsor concerning inclusion of language that would permit Hawaii to continue importing puppies from rabies-free countries. The legislation justifies this ban with findings that “conditions under which puppies are transported into the United States for resale are frequently inhumane” and “there is an unacceptably high incidence of disease and death among puppies imported into the United States for resale,” although there is no evidence documenting the validity of these findings.

ENFORCEMENT PROVISIONS

While **PIJAC** objected to a number of provisions in the PAWS legislation, it did support certain provisions that would enhance the ability of USDA to enforce the existing act. This legislation includes language from PAWS that permits USDA to temporarily extend suspension of the license of someone whose activities are putting an animal in serious danger, and to seek injunctions against people are acting as dealers without a license.

RECOMMENDED ACTION

Because this legislation is being introduced as an amendment to an existing bill (the Farm Bill), it is not required to separately go through any committees. The **Farm Bill** has already received favorable vote of the **House of Representatives** and is now on the floor of the Senate awaiting a final vote. Following Congressional approval of the conference committee report, the bill will be forwarded to the **President** for action. The last opportunity to wade in on provisions of **Senator Durbin’s** amendment prior to a **Senate** vote will require direct contact with your U.S. Senator. Note that action on this proposal may occur any day! Should you desire more information about the proposed provisions contact **PIJAC’S Michael Maddox** by phone at 202-452-1525 or email at mmaddox@pijac.org