



MINUTES

Care of Animals in Commercial Enterprises Study Committee

September 29, 2009

MEMBERS PRESENT:

Senator Dr. Joe M. Seng, Co-chairperson
Senator Merlin Bartz
Senator Pam Jochum
Senator Tim Kapucian
Senator Matt McCoy

Representative Jim Lykam, Co-chairperson
Representative Dwayne Alons
Representative Polly Bukta
Representative Mark Kuhn
Representative Annette Sweeney

MEETING IN BRIEF

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Organizational staffing provided
by: Doug Adkisson, Senior Legal
Counsel, (515) 281-3884

Minutes prepared by: Joe
McEniry, Senior Legal Counsel,
(515) 281-3189

- I. Procedural Business
- II. Opening Comments
- III. Organizations Concerned With the Care of Animals Panel
- IV. Iowa Pet Breeders Association Panel (IPBA)
- V. Iowa Veterinary Medical Association Panel (IVMA)
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- VII. Federal and State Regulators
- VIII. Iowa Pet Breeders Association (IPBA) — Continuation of Discussion
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I. Procedural Business

Call to Order. The Care of Animals in Commercial Enterprises Study Committee was called to order by temporary Co-chairperson Lykam at 9:10 a.m. on September 29, 2009, in Room 103 of the State Capitol. This was the Committee's only authorized meeting day.

Election of Chairpersons. The Committee elected temporary Co-chairpersons Seng and Lykam as permanent Co-chairpersons.

Adoption of Rules. The rules, as distributed, were approved by the Committee on a voice vote.

Adjournment. The meeting adjourned at 3:45 p.m.

II. Opening Comments

Co-chairperson Lykam stated there are approximately 450 United States Department of Agriculture (USDA) licensed kennels in Iowa with approximately 23,000 breeding dogs kept in kennels. He emphasized that dogs are not livestock but companion animals. Co-chairperson Seng stated that the Committee should review the inspection process and the timeliness of inspections and desired the Committee to determine if current laws are being followed, whether inspections are adequate, and if violations are being promptly addressed by the proper authorities.

III. Organizations Concerned With the Care of Animals Panel

Overview. Mr. Josh Colvin, Cruelty Intervention Coordinator, Animal Rescue League; Ms. Carol Griglione, Iowa Director, Humane Society of the United States; and Ms. Mary LaHay, Director, Iowa Voters for Companion Animals (IVCA), discussed perspectives of persons administering organizations engaged in caring for and adopting dogs, cats, and other nonagricultural animals.

Humane Society of the United States. Ms. Griglione stated her organization has 90,000 members in Iowa. She discussed trends in other states including 32 states considering bills regulating commercial establishments, and four states that have enacted statutes that have capped the number of breeding dogs allowed to be kept in a commercial establishment.

Animal Rescue League of Iowa. Mr. Colvin discussed the methods used by animal welfare organizations when cooperating with law enforcement during investigations involving cruelty and neglect of nonagricultural animals (Code Chapter 717B). He noted the complaint process against a commercial establishment is cumbersome. He also noted that his organization does not refer all complaints against a commercial establishment to local law enforcement and further noted that some complaints are referred to the USDA. He emphasized that most difficulties involving a complaint against a commercial establishment are not related to the investigation itself but have no solution under the law.

Iowa Voters for Companion Animals (IVCA). Ms. LaHay emphasized that IVCA does not advocate eliminating dog breeding or pet ownership. She discussed the care of nonagricultural animals kept by commercial establishments by the USDA, Animal Plant and Health Inspection Service (APHIS), under federal law and specifically the federal Animal Welfare Act (AWA), 7 U.S.C. § 2132 et seq., and Iowa's Department of Agriculture and Land Stewardship (DALS) under



Code Chapter 162. According to Ms. LaHay, APHIS regulates the care of dogs and cats offered for sale by wholesalers while DALS regulates the care of dogs and cats offered for sale by retailers. She noted that Iowa is the third leading USDA licensed dog breeding state in the country; expressed concerns regarding practices of federal licenses and the performance of APHIS, and especially the performance of one inspector (identified as inspector A); and recommended increasing the current fee structure codified in Code Chapter 162. She declared that opposition to proposed statutory changes by commercial breeders is on the wrong side of history. Ms. LaHay also presented a DVD film illustrating cases of substandard care provided to dogs at several commercial establishments. The film included pictures of algae in water dishes, untreated wire flooring, fecal accumulation, inadequate wind breaks around kennels, overcrowded kennels, kennels with improper lighting, and kennels with inadequate cage sizes given the size of the animal.

Senator Jochum commented that she tried to enter a commercial breeding establishment and was denied access. Ms. LaHay noted there is significant collaboration among commercial breeders to avoid oversight. Discussion ensued about potential sales tax losses related to the sale of pets. Representative Alons commented that the DVD film presented by Ms. LaHay did not show any well-managed commercial breeding establishments. He further commented that many commercial breeders who have been cited for violations of AWA were cited for minor infractions and not animal abuse. Senator Bartz commented that concerned citizens may desire to meet with APHIS to discuss the performance of any USDA inspectors.

IV. Iowa Pet Breeders Association Panel (IPBA)

Overview. Mr. Joe Gerst, member of the IPBA; Ms. Nancy Carlson, member of the IPBA; and Mr. Rob Hurd, member of the IPBA, provided the Committee with perspectives of persons engaged in the business of breeding, caring for, and selling dogs, cats, and other nonagricultural animals.

Presentation. Mr. Gerst stated commercial breeders have been portrayed as evil people by some who criticize the industry. He further stated that his presentation is not about defending poorly managed commercial breeders but about providing some perspective about commercial breeders operating across the state. Mr. Hurd commented that his commercial breeding business started after a puppy he purchased for his son died. Ms. Carlson noted that operating a commercial breeding facility provides a good life for her family. Each panelist noted that operating a commercial breeding facility is more than just an occupation; it is a lifestyle. Each panelist also spoke about the joys of providing a puppy to a family. Presenters also noted that 97 percent of USDA facilities are in substantial compliance with AWA.

Recommendations. Mr. Gerst emphasized that the IPBA favors reasonable legislation in order to protect well-managed commercial establishments, and expressed offense that well-managed establishments are the targets of attacks. The IPBA proposes that a person operating a commercial establishment found in direct violation of law be required to attend three hours of continuing training, that a person found in direct violation of the law on a second occasion be required to attend six hours of continuing training, and that a person found in direct violation of the law on a third occasion be subject to further sanctions.



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Discussion. The panelists and Committee members discussed the decline in the number of commercial establishments due to the economic recession, the allegation that commercial establishments dispose of unsold puppies en masse, problems associated with establishments that operate illegally without being issued a federal or state license, the assessment of fees, and the refusal of some commercial establishments to allow public access to establishments.

In response to a question from Co-chairperson Seng, Mr. Hurd stated that he could not continue to conduct a profitable business operating with a cap of 30 breeding dogs. Ms. Carlson also stated she would not be in business if the number of breeding dogs were capped at 20 dogs.

Discussion ensued about problems associated with commercial establishments that do not pay the state sales tax as required by law, and how this operates as a competitive disadvantage for honest businesspersons. Mr. Gertz noted that he has paid the sales tax for some customers to preserve the sale of a puppy to a customer who refused to pay the tax.

Senator McCoy stated that 59 percent of commercial establishments have violated the AWA which cannot be ignored. He emphasized Iowa needs to act more aggressively towards animal welfare violators. He noted that licensed facilities need to report unlicensed facilities to the proper authorities. He also stated that IPBA should remove unlicensed facilities from their e-mail distribution lists. Mr. Gertz responded that there is no intention to place unlicensed facilities on the IPBA e-mail distribution list. Senator McCoy also called for more uniformity between state and federal laws and commented that it is reasonable to look at the current fee structure in Code Chapter 162. Further discussion with IPBA continued until the end of the meeting.

V. Iowa Veterinary Medical Association Panel (IVMA)

Overview. Dr. Dan Whitney, President, IVMA, and Dr. Bill Willems, Vice-President, IVMA, provided the Committee with perspectives of veterinary medicine practitioners.

Discussion. The panelists raised issues regarding the role of state inspectors required to inspect a federally licensed establishment, and the funding necessary to enforce the expanded scope of state inspections. The panelists and Committee members also discussed whether complaints prompting a state inspection include a written affidavit submitted by a person who has firsthand knowledge of a violation, and written guidelines that apply when a violation is found (e.g., the imposition of sanctions, the opportunity to correct the violation, and notification of the violation of APHIS). Representative Alons commented that a complaint against a commercial breeding establishment should be signed by the complainant.

The panelists and Committee members also discussed genetic testing of breeding dogs, veterinary procedures conducted by persons who are not veterinarians, issues raised by requiring a veterinarian to report cases involving companion animals that have not been provided the proper level of care, and the enforcement of existing laws, including by the USDA Office of Inspector General. Representative Sweeney commented that it would be difficult to require veterinarians to be mandatory reporters of animal abuse because many veterinarians would not want to lose business. Senator McCoy stated that it might be difficult for a breeder to be honest with the breeder's veterinarian.



Senator Bartz asked whether it is legal for an animal owner to perform certain procedures including docking the tails on their animals. The panelists responded that if a person does not charge a fee for the service, the person is not illegally practicing veterinarian medicine.

VI. Veterinary Practitioners Panel

Overview. Dr. Jonelle Hankner, DVM, (participating by telephone) and Dr. Lisa Deppe, DVM, provided personal perspectives of veterinary medicine practitioners.

Presentation. Dr. Hankner and Dr. Deppe discussed their work as practicing veterinarians in treating neglected dogs and cats originating from commercial establishments. They described the conditions of the dogs and cats, including eye and dental conditions, severe matting, skin infections, and wounds requiring immediate attention. Dr. Hankner noted that the animals she treated were purchased at a public auction in Missouri and were accompanied by a health certificate signed by a veterinarian. Senator Bartz commented that it appears the veterinarians failed to perform due diligence in that particular case given the condition of the animals. Dr. Deppe and Committee members discussed whether veterinarians should report incidents of neglect and possible conflicts of interest, and the possibility of requiring genetic testing of breeding dogs. Dr. Deppe stated that many commercial breeders view veterinarians as an unnecessary business expense. Senator Kapucian commented that veterinarians should report violations to the USDA.

VII. Federal and State Regulators

Overview. Dr. Robert Gibbons, DVM, Director, Western Region, USDA, and Ms. Karey Claghorn, Deputy Secretary of Agriculture, DALs, discussed state and federal regulations. Ms. Claghorn was joined by Ms. Stephanie Black, a DALs inspector, and by Dr. David Schmitt, State Veterinarian.

Federal Regulations. Dr. Gibbons discussed the federal agency's responsibility to administer and enforce provisions of the AWA, and specifically by licensing and inspecting commercial establishments (referred to as dealers and exhibitors) including breeders, who sell dogs on a wholesale basis. He stated that APHIS conducts an average of 1.6 inspections nationwide per year per commercial establishment, but may inspect a commercial establishment with more or less frequency depending upon circumstances. There are three APHIS inspectors in Iowa.

According to Dr. Gibbons, commercial establishments are provided notice and an opportunity to correct a violation, with the possibility of enforcement action in cases of serious or chronic noncompliance. He noted that AWA does not have any criminal provisions. In response to a question from Representative Kuhn, he stated that APHIS may have suspended or revoked two licenses in the previous two years. Dr. Gibbons also discussed the performance of one inspector who is alleged to have issued lenient inspection reports. Dr. Gibbons assured Committee members that he is looking into the issue but stated that USDA employment policies prevent him from discussing an individual personnel matter. He also discussed costs involved in switching inspectors from different regions, noting that APHIS operates on a limited budget.

State Regulations. Ms. Claghorn discussed DALs' inspection of commercial establishments. DALs maintains five inspectors who inspect 1,306 commercial breeders, commercial kennels, boarding kennels, pet shops, dealers, and public auctions, and 242 pounds and animal shelters in



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the state. She estimated a 19 percent increase in staff time would be required to inspect APHIS-licensed commercial establishments. Ms. Claghorn and Committee members discussed full-time equivalent positions within DALs, that all license and certification fees paid to DALs are deposited into the state's General Fund, and are not used directly by DALs. Dr. Schmitt discussed the issuance of certificate of inspections (also referred to as health certificates) by veterinarians. He noted that veterinarians do not issue certificates for the intrastate movement of dogs and cats and that a veterinarian signing a certificate verifies only that the animal is free from a contagious or infectious disease and does not comment upon the animal's general condition. Co-chairperson Seng noted that health certificates do not take into account genetic diseases but that certificates in the future could account for such diseases.

VIII. Iowa Pet Breeders Association (IPBA) — Continuation of Discussion

Mr. Gerst, member of the IPBA, and the Committee continued the discussion related to the commercial breeding of nonagricultural animals. Mr. Gerst stated he is personally offended when people accuse him of operating a "puppy mill." In response to questions related to denying public access to commercial establishments, he stated the presence of strangers around a kennel stresses animals and there are people who desire to have breeders go out of business so there is no incentive to allow public access to the kennels. Senator McCoy stated that it is not good public relations to deny public access to commercial establishments. Representative Alons stated that the Committee must be careful about overregulation. He noted that commercial breeding is a vital industry and is interconnected with other industries such as veterinarians and pet groomers.

IX. Committee Discussion and Recommendations

Discussion. Committee members expressed opinions about the need for greater oversight regarding the care of dogs kept by persons operating commercial establishments and who under Code Chapter 162 are required to be issued either a state license or a state certificate of registration because they are federally licensed under the AWA.

Recommendations. The Committee voted to approve all of the following recommendations:

- That the General Assembly provide that upon complaint the state may inspect the establishment of a federal licensee who is issued a state certificate of inspection.
- That the General Assembly provide that a federal licensee who is issued a state certificate of inspection as a commercial breeder attend hours of continuing training if the commercial breeder violates the AWA.
- That the General Assembly increase fees imposed upon federal licensees who are being issued a state certificate of registration, that those fees be retained by DALs and not deposited into the state's General Fund, and that the fees be used to support the department's regulation of commercial establishments.
- That the General Assembly provide methods necessary to better identify persons who operate a commercial establishment without being issued a state license or state certificate of registration as required by law.



- That the General Assembly provide that a veterinarian report to the state a serious violation of a standard of care applicable to a dog that the veterinarian examines in the veterinarian's office (see the reporting system in Illinois).
- That the Department of Revenue consistently enforce the collection of the sales tax currently imposed on persons who sell companion animals on a retail basis, including enforcement on persons operating commercial establishments who fail to remit the sales tax on the sale of dogs as required by law.
- That the State Veterinarian investigate the possibility of requiring veterinarians to issue certificates of inspection or health certificates when dogs are moved within the state, and report the results of that investigation to the General Assembly.
- That the Legislative Services Agency research provisions in Colorado statutes that address issues discussed by the Committee during its meeting, and report the results of that research to the Committee.
- That the Legislative Services Agency draft a letter for submission by the Co-chairpersons on behalf of the Committee to members of Iowa's congressional delegation, and to the Secretary of Agriculture, USDA, which expresses concern regarding the failure of a federal inspector in Iowa to adequately report violations of the AWA and USDA regulations in inspection reports, and to encourage the delegation to meet with the Secretary or the appropriate undersecretary responsible for the department's APHIS.

X. Materials Filed With the Legislative Services Agency

The items listed below were distributed at or in connection with meetings and are filed with the Legislative Services Agency. The materials may be accessed from the <Additional Information> link on the Committee's Internet Webpage:

<http://www.legis.state.ia.us/aspx/Committees/Committee.aspx?id=486>

1. September 29, 2009 — Agenda.
2. August 21, 2009 — Meeting Notice.
3. Legislative Services Agency — Background information prepared by Mr. Doug Adkisson, Legal Counsel.
4. Proposed Rules.
5. Adopted Rules.
6. Charge, Membership, and Proposed Rules.
7. Organizations Concerned with the Care of Animals Panel — Statement by Ms. Griglione, Iowa Director, Humane Society of the United States.
8. Organizations Concerned with the Care of Animals Panel — Untitled video concerning the treatment of animals in federally inspected facilities, presented by Ms. LaHay, Director, Iowa Voters for Companion Animals.
9. Organizations Concerned with the Care of Animals Panel — PowerPoint presentation by Ms. LaHay, Director, Iowa Voters for Companion Animals.
10. Organizations Concerned with the Care of Animals Panel — Handout #1 by Ms. LaHay, Director, Iowa Voters for Companion Animals.
11. Organizations Concerned with the Care of Animals Panel — Handout #2 by Ms. LaHay, Director, Iowa Voters for Companion Animals.



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12. Organizations Concerned with the Care of Animals Panel — Handout #3 by Ms. LaHay, Director, Iowa Voters for Companion Animals.
13. Organizations Concerned with the Care of Animals Panel — Handout #4 by Ms. LaHay, Director, Iowa Voters for Companion Animals.
14. Organizations Concerned with the Care of Animals Panel — Handout #5 by Ms. LaHay, Director, Iowa Voters for Companion Animals.
15. Organizations Concerned with the Care of Animals Panel — Handout #6 by Ms. LaHay, Director, Iowa Voters for Companion Animals.
16. Organizations Concerned with the Care of Animals Panel — Handout #7 by Ms. LaHay, Director, Iowa Voters for Companion Animals.
17. Organizations Concerned with the Care of Animals Panel — Handout #8 by Ms. LaHay, Director, Iowa Voters for Companion Animals.
18. Iowa Pet Breeders Association Panel — PowerPoint presentation by Ms. Carlson, member.
19. Iowa Veterinary Medical Association Panel — Statement by Dr. Whitney, DVM, President.
20. Veterinary Practitioners Panel — PowerPoint presentation by Dr. Deppe, DVM.
21. United States Department of Agriculture, PowerPoint presentation by Dr. Gibbons, DVM, Director, Western Region United States Department of Agriculture.
22. Department of Agriculture and Land Stewardship, Ms. Claghorn, Deputy Secretary of Agriculture — Handout #1.
23. Department of Agriculture and Land Stewardship, Ms. Claghorn, Deputy Secretary of Agriculture — Handout #2.
24. Department of Agriculture and Land Stewardship, Ms. Claghorn, Deputy Secretary of Agriculture — Handout #3.

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