



# Iowa General Assembly

## 2009 Committee Briefings

Legislative Services Agency – Legal Services Division <http://www.legis.state.ia.us/asp/Committees/Committee.aspx?id=486>

### CARE OF ANIMALS IN COMMERCIAL ENTERPRISES STUDY COMMITTEE

**Meeting Dates:** [September 29, 2009](#)

**Purpose.** *This compilation of briefings on legislative interim committee meetings and other meetings and topics of interest to the Iowa General Assembly, written by the Legal Services Division staff of the nonpartisan Legislative Services Agency, describes committee activities or topics. The briefings were originally distributed in the Iowa Legislative Interim Calendar and Briefing. Official minutes, reports, and other detailed information concerning the committee or topic addressed by a briefing can be obtained from the committee's Internet page listed above, from the Iowa General Assembly's Internet page at <http://www.legis.state.ia.us/index.html>, or from the agency connected with the meeting or topic described.*

### CARE OF ANIMALS IN COMMERCIAL ENTERPRISES STUDY COMMITTEE

September 29, 2009

**Co-chairperson:** Senator Dr. Joe Seng

**Co-chairperson:** Representative Jim Lykam

**Organizations Concerned With the Care of Animals.** Mr. Josh Colvin, Cruelty Intervention Coordinator, Animal Rescue League of Iowa; Ms. Carol Griglione, Iowa Director, Humane Society of the United States; and Ms. Mary LaHay, Director, Iowa Voters for Companion Animals, discussed the care of dogs and cats by persons operating commercial establishments, and especially persons licensed by the federal government. Mr. Colvin discussed how organizations interested in animal welfare cooperate with law enforcement when investigating cases concerning cruelty and neglect of nonagricultural animals (Iowa Code Chapter 717B). Ms. Griglione stated that in 2009, 32 states considered bills regulating commercial establishments, and that four states have enacted statutes placing a limit upon the number of breeding dogs that can be maintained by a commercial establishment.

Ms. LaHay discussed the care of nonagricultural animals kept by commercial establishments by the United States Department of Agriculture (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 the Department of Agriculture and Land Stewardship (DALs) under Iowa Code Chapter 162. According to Ms. LaHay, APHIS regulates the care of dogs and cats by persons engaged in sale on a wholesale basis while DALs regulates the care of dogs and cats by persons engaged in sale on a retail basis. She noted that Iowa is one of the leading dog breeding states in the nation; expressed concerns regarding the practices of federal licensees 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 Iowa Code Chapter 162. Ms. LaHay presented a DVD film which illustrates cases of substandard care provided to dogs kept in several commercial establishments. The panel and Committee members discussed inspection practices by APHIS, and the difficulty in obtaining data collected by the agency.

**Iowa Pet Breeders Association (IPBA).** Mr. Rob Hurd, Legislative Liaison for the IPBA, and Mr. Joe Gerst and Ms. Nancy Carlson, members of the IPBA, discussed commercial breeders and commercial kennels. They described their family-owned operations, emphasized the important economic and social benefits that derive from breeding and selling companion animals and especially dogs; the hard work involved in the business, government inspection procedures, and the personal satisfaction gained from placing well-cared-for puppies with satisfied customers.

Mr. Hurd emphasized that the IPBA favors reasonable legislation in order to protect well-managed commercial establishments, and expressed offense that his and other well-managed establishments are the targets of attack. He stated that 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 unspecified sanctions.

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. Mr. Hurd stated that he could not continue to conduct a profitable business operating with a cap of 30 breeding dogs. He discussed 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.

**Iowa Veterinary Medical Association (IVMA).** Dr. Dan Whitney, DVM, President, and Dr. Bill Williams, DVM, Vice President, of the IVMA, stated that the IVMA represents 1,510 veterinarians including 83 percent of licensed veterinarians in the state. The panelists raised issues regarding the role of state inspectors required to inspect a federally licensed establishment, the funding necessary to enforce the expanded scope of state inspections, that 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 to APHIS). Dr. Whitney emphasized that IVMA members are committed to providing the highest quality of care possible to animals.

The panelists and Committee members discussed genetic testing of breeding dogs, veterinary procedures conducted by nonveterinarians, 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.

**Veterinary Practitioners Panel.** Dr. Jonelle Hankner, DVM, and Dr. Lisa Deppe, DVM, 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. 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.

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

Dr. Gibbens and Committee members discussed a number of issues. In response to Committee questions, he stated that APHIS may have suspended or revoked two licenses in the previous two years, but that a number of commercial establishments have become insolvent during that period. Dr. Gibbens also discussed the performance of one inspector who is alleged to issue lenient inspection reports. Dr. Gibbens 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.

**DALS.** Ms. Karey Claghorn, Deputy Secretary of Agriculture, discussed DALS' inspection of commercial establishments. Ms. Claghorn was accompanied by Ms. Stephanie Black, a DALS inspector, and Dr. David Schmitt, State Veterinarian. Ms. Claghorn explained that 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 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 the department, that all license and certification fees paid to DALS are deposited into the state's General Fund, and are not used by DALS directly. 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 warrant the animal's general condition.

**Committee Recommendations.** Committee members expressed opinions about the need for greater oversight regarding the care of dogs kept by persons operating commercial establishments and who under Iowa 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 federal Animal Welfare Act.

- 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 federal Animal Welfare Act.

- 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, United States Department of Agriculture, which expresses concern regarding the failure of a federal inspector in Iowa to adequately report violations of the federal Animal Welfare Act 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 Animal and Plant Health Inspection Service.

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