

## **PAWS 2005 FAQ**

### **Senate Bill 1139/House Bill 2669 - introduced May 2005**

#### **WHAT IS PAWS?**

"Pet Animal Welfare Statute of 2005," (PAWS) is the latest attempt by Senator Rick Santorum (PA) to amend the Animal Welfare Act (AWA) to place the federal government in control of breeding and sales of dogs and cats in the private sector. Traditionally, the Animal Welfare Act ensured the humane treatment of animals in laboratory settings. It was later amended to include regulation of pet wholesalers. Every AWA amendment effort over the last 30 years has been highly controversial, as have its USDA implementation rulemakings. PAWS, denoted bills S1139 and HR2669, is the most devastating bill of its kind ever introduced.

#### **WHAT IS THE BIGGEST PROBLEM WITH PAWS?**

PAWS exposes animal rescuers, some hobby breeders and every seller of a dog for "hunting, security, or breeding purposes" to a very significant USDA licensing risk, involving burdensome commercial costs and inspection standards.

PAWS changes the AWA and USDA's existing, long-standing, legally tested basis for federal dog and cat business licensing and regulation. The current procedure is based on treating wholesale sales and retail sales differently. Reducing it to its simplest terms, under current law and USDA regulations, if you sell a dog to a wholesaler, you are regulated. Rescuers, hobby breeders and owners selling to retail buyers are exempt today. The Doris Day Animal League challenged the hobby breeder portion of this regulatory structure in court and lost in 2003.

PAWS is confused, highly subjective and predictable only in the sense that it will overwhelm the USDA with unnecessary inspections of thousands of rescuers and hobby breeders and waves of litigation. Either by design or by accident, it also exposes **all** buyers and sellers of dogs for hunting, security and breeding purposes to federal licensing and regulation.

#### **HOW WILL USDA LICENSING IMPACT THE HOBBY BREEDER?**

- PAWS amends the current statute to define additional USDA licensed "dealers" to include:
  1. Any person that sells more than 25 dogs or cats at wholesale or to the public, or
  2. Any person that whelps more than 6 litters of dogs or cats and sells dogs or cats bred or raised on the premises of another person, or at wholesale, or
  3. Any person that imports dogs for another person's use and enjoyment.
- A USDA license will require unannounced inspections and annual fees in addition to conforming to over 60 pages of care and facility standards. Standards such as "surfaces must be impervious to moisture" are impossible to meet in the home environment.
- The requirement of USDA licensing will severely impact cat fanciers at the hobby breeding level, if it does not destroy their pedigreed breeding programs completely.
- In many areas having a USDA license automatically defines you as a commercial entity - frequently not allowed in residential zoning. If allowed by the local jurisdiction, you may be required to get a conditional use permit, which can be vetoed by your neighbors and also meet setback requirements that might require a larger lot size. A USDA-compliant kennel with 10 runs may cost you in the six figures and probably lower the value of your property for other than a non-kennel buyer in the future.

## **HOW WILL USDA LICENSING IMPACT RESCUE ORGANIZATIONS?**

Rescue organizations will be in all probability eliminated, as they will never be able to comply with USDA care regulations, which are written to regulate commercial-scale-breeding facilities. Even the smallest of rescue organizations sell, or place 25 dogs/cats in one year, making them "dealers."

Rescuers cannot 'just buy a license,' because if they are licensed they must keep all animals in a kennel. A 'kennel' with rescues is an 'animal shelter.' There is no structural way to change the rules to allow non-licensed rescue without creating enforcement loopholes.

## **WHY WILL BUYERS AND SELLERS OF DOGS FOR HUNTING, SECURITY AND BREEDING PURPOSES BE LICENSED UNDER PAWS?**

Previously, AWA's entire determination of who was a federally licensed dog seller ("dealer") hinged on the type of sale involved - wholesale or retail. PAWS discards that regulatory structure and substitutes one that requires that most dealer determinations be based on numbers of dogs sold or litters bred, without regard to wholesale or retail sales. The critical problem is that Senator Santorum and the PAWS supporters left a key existing AWA provision unchanged.

### **The term "dealer" means any person who buys, or sells any dog for hunting, security, or breeding purposes**

This is in conflict with the numerical criteria set out above. Why are hunting and security dog owners singled out and herding, working and toy breed owners ignored? Does this mean that all sellers of intact dogs are to be licensed, but not those selling sterilized animals?

The reason that this provision hasn't been an active concern before today is that it has not been enforced. USDA took four years to write the "purposes" implementing rule and it was not until October 21, 2004, that the agency published its determination that it would require such licensing of *\*\*only those dog owners selling to wholesalers.\*\**

PAWS eliminates the established USDA regulatory distinction between wholesalers and retailers. It shatters and pulls the entire AWA regulatory basis to the ground. It requires licenses of selected dog owners for the first time in 30 years on the basis of what their dogs do, not how they're treated, thus guaranteeing years of litigation, costly uncertainty for all and wrenching dog ownership disruptions.

## **ISN'T IT A GOOD IDEA IF PAWS REGULATES SALES VIA THE INTERNET?**

No. The Internet has become a valuable tool to connect both breeders and rescue organizations with the public. The Internet provides valuable information to assist potential buyers with needed criteria for selecting and purchasing a cat/dog. Certainly there are people who abuse this by staging photographs that do not represent what they are selling or the conditions the cats/dogs are living in. There are people who will sell with or without contracts and refuse to allow the cat/dog to be returned if the buyer is not satisfied. However, this is true of any sale of any product. It is the buyer's responsibility to be an informed purchaser. It is not the duty of the government to inspect the homes of private citizens or rescue organizations and license them prior to use of the Internet for sales. The AKC itself encourages Internet selling by posting advertisements on its website. Contrary to statements by the bill's proponents, **PAWS does nothing to address Internet sales.** It does not contain the word "Internet" or its equivalent anywhere in it.

## **WHO SUPPORTS PAWS AND REGULATION OF HOBBY BREEDERS AT THE IN-HOME LEVEL?**

Animal rights groups support this legislation. Animal rights groups create extreme emotion and turmoil in the public eye about any breeding - attempting to lead the public into believing that everyone who breeds is automatically guilty of abuse and incapable of caring for their own animals.

AKC's management and Board of Directors also support PAWS. Any explanation of the reason for this capitulation and reversal of long-established policy would be speculation; however, AKC's decision has divided fanciers, caused it to lose business and alienated former allies who stood with it in the past to oppose inappropriate animal rightist legislation.

## **WHY DO WE OPPOSE THIS LEGISLATION?**

- PAWS establishes federal authority to regulate a personal hobby conducted in the privacy of your own residence.
- It is not the role of the federal government to be a national humane agency or a control agency to but strike a balance between public oversight and individual freedom that is appropriate for the federal government.
- No documentation has been submitted by the PAWS supporters to verify their claim that federal legislation is required to ensure animal welfare rather than continue with current state and local enforcement of animal welfare laws.
- We strongly oppose the attempt of animal rights groups to use government to further an extremist agenda which will redefine breeders as commercial activity and restrict the rights of responsible breeders and animal owners. PAWS will lead to more restrictive local, county and state regulation AFTER it has been proven impossible to enforce at federal level.
- PAWS reverses a U.S. Court of Appeals 2003 decision that it was not the intent of Congress to regulate in-home breeders. (See [Doris Day Animal V Veneman Ann](#))
- PAWS establishes the precedent for federal regulation of home hobby breeding, rescuers, all sellers of intact, breedable dogs and the discrimination against certain types of dogs, e.g. hunting and security breeds. Additionally, strong pressure to further decrease PAWS's numerical "dealer" criteria is inevitable.
- Current USDA regulations are written to cover commercial facilities, not in-home breeding programs. Raising a litter of puppies/kittens in your bedroom is not compliant with established USDA regulations for hosedown/sanitize facilities. It's not at all clear that any new regulations for in-home hobby breeders will be materially different than those already in place. Presently covered commercial facilities are certain to fiercely resist cheaper standards for those in the same regulated class. If PAWS passes and the USDA regulates and inspects hobby breeders, rescuers and other dog sellers, how can it justify more lenient regulations or standards for any regulated entity, if its primary mission is animal protection?
- USDA does not have the manpower to enforce PAWS. It seems futile to pass legislation that would require multi-millions of dollars to be needlessly appropriated by Congress when so many other more valid public priorities and problems exist. Should USDA employ private contract inspectors associated with a dog registry or an animal rights group, very serious anti-competitive and/or animal ownership V. animal rights policy disputes are inevitable. PAWS is a burden that the USDA must greatly fear.