



WISCONSIN ACT 90 AND ATCP 16: Clearing Up the Confusion

WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE & CONSUMER PROTECTION | DIVISION OF ANIMAL HEALTH

Wisconsin Act 90 is the new law to protect dogs and the people who buy or adopt them. It requires *some* dog breeders and others involved in dog sales or adoptions to be licensed and inspected. It also requires that dogs be examined by a veterinarian before they are sold or adopted, and prohibits sale of puppies until they are 7 weeks old. Wisconsin Act 90 has already passed the Legislature, been signed by the Governor, and takes effect June 1.

The law is not specific about the standards the licensees must meet in their facilities and in how they care for their dogs. Instead, it directs the Department of Agriculture, Trade and Consumer Protection to write an “administrative rule” -- ATCP 16 -- and submit it to the Legislature for final review. This is still in process. During the rule-writing process, a lot of confusion has arisen, especially among some dog breeders who will not need to be licensed at all. Let’s try to clear some of that up, keeping in mind the goals: *humane treatment for dogs and fairness to consumers*.

There’s confusion about...	The facts are...
<p>Who must be licensed</p>	<ul style="list-style-type: none"> • Wisconsin Act 90 is very specific. You’ll need a license only if you are a: <ul style="list-style-type: none"> Dog breeder selling at least 25 dogs a year from at least 3 litters Pet store or other retailers <i>selling at least 25 dogs a year</i> Dog auction <i>offering at least 50 dogs for sale a year</i> Non-profit animal shelter <i>sheltering at least 25 dogs a year</i> Animal control facility that contracts with a city, village, town or county Flea market or other temporary market where dogs are sold • You do not need a license under any other circumstances. There is no plan to extend the law to cover smaller breeders, sporting dog trainers, pet owners or others. • The law covers more than “puppy mills” because good breeders come in all sizes and so do bad breeders. All of these businesses and facilities are places where dogs could be mishandled and consumers could be misled.
<p>What the proposed ATCP 16 standards say</p>	<ul style="list-style-type: none"> • The standards: <ul style="list-style-type: none"> • Do not address breeding practices, other than whelping enclosures. • Do not address docking tails or ears, or other similar practices. • Are flexible to accommodate different breeds and sizes of dogs. • The standards address the needs of dogs for: <ul style="list-style-type: none"> • Clean, safe cages or enclosures, that are large enough to allow them to move naturally and that protect them from the elements • An adequate supply of clean water and clean, palatable, nutritious food • Daily exercise • Daily contact with humans and other dogs • Veterinary care when they are sick • Safe, comfortable transportation • The standards are similar to those in other states and are what any pet owner would want and expect, both for the sake of humane treatment and to assure receiving a healthy animal.

The makeup and role of the advisory committee

- Wisconsin Act 90 required us to form an advisory committee with up to 12 members to recommend standards for facilities and animal care. It specified what groups would be represented. These standards are the main part of the administrative rule, ATCP 16.
 - Although dog breeders will be the largest group of licensees, other organizations and businesses will also need to be licensed. This is why they were represented.
 - Many dog breeders sell just a few dogs a year. They will not be regulated, so they were not represented. They did have other opportunities for input.
 - The committee included four dog breeders; representatives from two humane societies, a dog rescue group and an animal control facility; a pet store trade group; a sport association that works with dogs; and two veterinarians.
- All members had an equal voice on the committee. The goal was to set standards that would protect dogs and consumers, while still being practical and achievable for businesses and organizations. As could be expected, no one got everything he or she wanted in the recommendations.
- The committee was *advisory*. Members' input was considered, along with comments gathered through public hearings and written comments, but ultimately the Department of Agriculture, Trade and Consumer Protection was responsible for writing ATCP 16.

The process

- Everyone who has an interest in Wisconsin Act 90 and ATCP 16 has had multiple opportunities to provide input.
 - It was well-publicized as it went through the Legislature, so citizens could send comments to their legislators, and there was a public hearing on the bill.
 - The advisory committee members were listed on our website, with email address links so citizens could send comments to them.
 - Once we had drafted ATCP 16, it was posted on our website with multiple means of providing comments. We held five public hearings around the state, and publicized them nearly a month in advance of the first one. At each hearing, we provided a detailed explanation of the standards we were proposing. Many or most of those attending were there to ask questions, which this presentation answered. The majority of those who commented supported the standards. We did make changes to the proposed rule based on public comments.
 - The Board of Agriculture, Trade and Consumer Protection provides time at every meeting for citizens to address concerns regardless of whether the topic is on the agenda.
- The next step is for the Board to approve the final draft of ATCP 16. It then goes to the new Legislature, where a committee in each house has up to 60 days to review the rule. They may let it take effect, ask for changes, or call a public hearing.
- Each of these steps gives opponents another opportunity to seek changes, and supporters the opportunity to convince legislators to uphold the rule as written.

The role of public opinion	<ul style="list-style-type: none"> • Regulations affect more than just those who are regulated; they exist to serve a public need or desire. • Prior to passage of Act 90, the public was frustrated by our inability to protect dogs and the consumers who bought or adopted them and ended up with veterinary bills and dogs that were unfit to be pets. This led to public calls for action and a legislative response. • We must consider the needs of the general public along with those of regulated parties when we write laws and administrative rules.
Enforcement	<ul style="list-style-type: none"> • When inspectors find violations, the licensee is given the chance to correct it. The goal is to solve the problem, not to punish. • When we can't solve the problem by working with the licensee, we use progressive enforcement, starting with warning letters and conferences. We may move to cease-and-desist orders and license suspensions. • When inspection reveals a problem that poses an imminent threat to humans or animals, we do take immediate action. • We do not have authority to issue citations, seize animals, or bring charges in court; we must request local law enforcement agencies to do those things. Going to the sheriff or district attorney is a last resort, unless there is imminent danger to humans or animals. • Our inspectors are not armed.
Qualifications of inspectors	<ul style="list-style-type: none"> • DATCP inspectors conducted more than 42,700 inspections in 2009, including dairy farms and dairy plants, meat slaughterers and processors, grocery stores and delis, gas pumps and price scanners, beehives, Christmas tree farms, nursery growers and dealers, pesticide and fertilizer tanks, and animal feed mills. • The overwhelming majority of these inspections find no violations or minor violations that are easily corrected, and confrontations with licensees are rare. Inspectors are not heavy-handed, and are generally viewed as helpful by businesses that want to do the right thing – which most businesses do. • Our inspectors are hired for their experience and training in the areas they are inspecting, and may have a law enforcement background as well. They receive initial training in the department's compliance policies and procedures, and ongoing training to keep up with changes in their fields and in the law. • We are developing position descriptions for the inspectors to be hired under Act 90. However, we will likely look for knowledge of animal husbandry, veterinary care, animal law and similar types of expertise. They do not need to have experience in dog breeding, because they are not inspecting reproductive practices. You do not have to be a dog breeder to evaluate sanitation, space, exercise and socialization for dogs, or to see when they need veterinary care.

Funding this program

- Fees paid by the licensees will pay for all costs associated with this program: personnel salaries and benefits, supplies, training, all other administrative costs.
- No general tax funds will go to support this program. If funding falls short, we cannot shift other funds to support it. We would have to make cuts to the program or ask the Legislature to increase the license fees.
- Cost estimates were based on the experience of other states with similar programs.
- Costs may be passed on to consumers. Any additional costs may well be offset by receiving a healthier animal with fewer and lower veterinary bills, and less likelihood of bites and other injuries to humans and less damage to property by poorly adjusted animals.

Cost to businesses and supply of dogs

- Some hobbyist breeders may decide to limit sales to a level where they will not need to be licensed.
- Some breeders may decide to go out of business rather than improve their facilities or change their practices to meet the standards of humane treatment.
- Breeders who have good facilities and practices should not need major investments to meet the new standards.
- License fees range from \$125 a year for non-profit animal shelters to \$1,000 a year for someone selling at least 250 dogs a year. This cost should not be onerous.
- The supply of dogs in Wisconsin is not likely to be affected by Wisconsin Act 90 or ATCP 16:
 - Other states that regulate these businesses do not report consumer difficulty in finding dogs in their own states.
 - It is unlikely that we will ever have a shortage of dogs in general. Most dogs in animal shelters are strays, drop-offs, and unplanned puppies from within our own borders.
 - Some shelters do bring in dogs from other states when shelters elsewhere run out of space. These dogs arrive with certificates of veterinary inspection, and under Act 90 will need to be examined by a veterinarian before being adopted out. They do not pose an increased disease risk to in-state breeders' animals.

Need more information?

- Go to www.datcp.state.wi.us, search for "dog breeder"
- Email DATCPanimals@wi.gov
- Call 608-224-4872