



State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

Hearing Testimony

Senate Committee on Small Business, Emergency Preparedness, Workforce Development,
Technical Colleges and Consumer Protection and Assembly Committee on Consumer Protection
and Personal Privacy

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11:00 AM

GAR-413 North, State Capital

Chairmen Wirsch and Lothian and Committee Members:

I am Dr. Yvonne Bellay, the State Humane Officer and staff epidemiologist with DATCP, Animal Health. The Department of Agriculture, Trade and Consumer Protection is testifying today in opposition to companion bills SB 308 and AB 567. Although the department believes that legislation addressing the regulation of pet facilities is sorely needed in Wisconsin, we do not feel that these proposals present a workable solution to the problems.

Current Situation

Currently in Wisconsin there is no state regulation, licensing or inspection of what can be referred to as “pet facilities”. This would include breeders, kennels, pet stores, catteries, shelters, or pounds. This complete lack of regulation puts Wisconsin in the minority of states. At least 27 states have some form of regulation including the surrounding states of Iowa, Michigan, and Illinois, and proposed legislation is currently in the legislature in Minnesota.

The only law in place at this time is a criminal statute, Chapter 951, Crimes Against Animals. Because this is a criminal statute, it specifies only the minimum standards of care that must be provided to an animal before an owner or responsible person can be found guilty of a crime. Typically, conditions are quite bad and there are considerable animal welfare problems before a jurisdiction is willing to prosecute under this statute.

Also, contrary to a common misperception, the USDA does not regulate the vast majority of breeders and kennels within the state. That agency regulates only those facilities that meet very specific criteria, such as selling puppies wholesale. According to the current USDA-Animal Care web site, the agency regulates only 72 kennels in Wisconsin.

Proposed Legislation

SB 308 and AB 567 as amended would require a person who breeds dogs and sells 50 dogs in a year to be licensed by DATCP. It requires DATCP to establish by rule minimum standards of care for facilities that must be licensed.

Agriculture generates \$51.5 billion for Wisconsin

In order for a facility to obtain a license from DATCP it must hold a seller's permit from the Department of Revenue and submit an affidavit stating that the commercial dog breeder complies with DATCP's rules.

The remainder of the proposal sets forth the specifics of a "puppy lemon law".

Problems with Proposal

- No pre-licensing or routine inspection of licensed facilities is required or even permitted.

A license is issued based only upon an affidavit from the person seeking the license. Consequently, DATCP is required to issue a license to a facility it has never seen regardless of the actual conditions. In addition, for the general public, the DATCP license implies that the department has verified the conditions of the facility and the animals, and can assure the consumer that they can purchase the animal with confidence. This will not be the case.

This is currently a completely unregulated industry with no oversight, no consistent husbandry standards or no requirement to notify any agency that they exist. Conditions and standards range from excellent to deplorable. A pre-licensing inspection is the only way to assure the public that the DATCP license has any integrity, and routine inspections are the only mechanism to make sure that facilities are maintaining acceptable standards of care.

Pre-licensing and routine inspections are a way to educate facility operators and correct any substandard conditions and situations before they deteriorate. This will not be possible under this proposal. The first contact the kennel operator will have with DATCP will be the result of a problem or complaint.

- Proposal allows complaint-based inspections only.

Complaint-based programs do not work and result in responding to one problem or disaster after another rather than operating a preventative program based upon maintaining acceptable standards of care. A recent good example of this is the State of Nebraska, where legislation passed in 2000 created a complaint-based program. It quickly became apparent that the system did not work. Consequently, in 2007 a new law was passed that provided staffing for a complete inspection program. Even as Nebraska faced tight fiscal constraints like Wisconsin's, the state was able to make the necessary changes and appropriately fund the program. .

We routinely receive numerous complaints regarding kennels, breeders and other pet facilities, and we anticipate an increase in this number if the public assumes that we are responsible for regulating the facilities. I think it is fair to say that I probably receive more of these complaints than any other individual in the state. I received three phone complaints and two email complaints during just Monday and Tuesday of this week, and each complainant was incredulous that the department did not regulate and inspect these facilities. Because under this proposal

there will be no way of determining whether the facility should be licensed, whether the complaint is legitimate or not, or the severity of the problem without making an inspection, every complaint will need an investigation and inspection.

Currently, animal welfare complaints are directed to law enforcement or local humane officers, if appointed, to enforce the law. In some situations these complaints are given low priority for a variety of reasons. Under this proposal law enforcement is given the option of whether or not to respond to a complaint and can instead send all of the complaints to DATCP. This situation will also potentially greatly increase the number of inspections to be done.

There will be instances where DATCP-AH responds to a complaint and finds substandard or even deplorable conditions but that the facility does not meet the criteria for licensing. We will have no authority to address the problem. This will result in continued animal welfare problems and very bad public relations.

In addition, there is currently an increase (possibly in response to potential regulation) in breeders who contract with individuals to sell litters of puppies out of their homes. In this way buyers see one litter sold out of a home and assume they are buying a home raised pup. The buyer never sees the actual conditions that the pups were raised in and would have no reason to file a complaint, regardless of how bad those conditions may be.

- No additional resources are provided for DATCP-AH to run the program.

It is unrealistic to assume a program of this size could be handled with existing resources. Animal Health employs 8.0 full time state funded inspectors and 4.0 full time state funded compliance staff for all animal health compliance, ranging from deer farms to disease trace-backs. Due to current workload issues, DATCP-AH has a backlog of cases, and we have been forced to prioritize cases. With limited resources complaints are prioritized so that disease issues with animal and human health implications are addressed first. Adding the additional complaint investigations to the existing cases will make immediate or timely responses difficult or impossible.

Inspections of problem facilities are generally extremely time consuming initially, and often require multiple re-inspections to ensure compliance.

Licensing requires resources, both human and technology related. A database to hold the licenses and report data will need to be established, information will have to be entered into the system, applications for new licenses will have to be sent out, and applications and renewals will have to be processed. In addition, complaints on facilities will need to be tracked.

- Threshold for regulation is very high.

By limiting licensure requirements to those who sell 50 or more dogs per year, a very large percentage of the problems will not be addressed. Although there has been a great deal of press regarding large “puppy mills”, the majority of complaints I receive involve breeders who sell smaller numbers of dogs and would not be affected by this legislation. Those with 10 dogs in the basement are often more of a problem than large breeders.

Finally, the comments have been made that any legislation is better than nothing and that imperfect legislation can't make things worse. Unfortunately, the current situation would be made worse, since there would be ineffective regulation and the general public would be led to believe that the problems have been solved. Consequently, DATCP opposes the current proposal.