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Elizabethtown, Pennsylvania 17022

Mary Bender, Director  
Pennsylvania Department of Agriculture  
Bureau of Dog Law Enforcement  
2301 North Cameron Street  
Harrisburg, Pennsylvania 17110-9408

Subject: Proposed Rulemaking [7 PA CODE Chapters 21, 23, 25, and 27]

Dear Ms. Bender:

Please accept the following comments regarding the subject proposed rulemaking related to Pennsylvania Commonwealth dog laws as published in the December 16, 2006 issue of the Pennsylvania Bulletin. These comments are submitted as required of my appointment to the Governor's Dog Law Advisory Board. I have consulted my constituents, including sportsmen and sportswomen, breeders, local and out-of-state competitors in field trials, as well as the Pennsylvania Beagle Gundog Association, the Northeast Beagle Gundog Federation, representatives of the American Kennel Club, the Pennsylvania Dog Owners' Protective Association and others involved in dog-related sports. Additionally I have been lobbied by a variety of individuals and groups regarding the proposed rule-making.

In the course of developing these comments I have reviewed the proposed regulations thoroughly, and in addition to these general comments, I have attached a list of specific comments that address proposed changes by regulatory citation.

As discussed at the December 13, 2006 meeting of the Dog Law Advisory Board, these and other proposed changes would allow the Bureau greater authority to administer penalties and prosecute violators. As laws are only as effective as their enforcement, I support actions to reasonably empower and streamline the Bureau to enforce the regulations.

The cited proposed changes seem to switch the emphasis of evaluation by the Bureau from a condition-based assessment to a facilities-based standard. A number of the proposed changes appear to be poorly written, vague, and unenforceable. I am concerned that standards will be extremely expensive for smaller hobby-type breeders to comply with. Many of the required practices may actually reduce the level of sound kennel management practices (eg. Painted wood surfaces).

INDEPENDENT REGULATORY  
REVIEW COMMISSION

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Redundant and unnecessary record-keeping requirements are proposed. I strongly object to such record-keeping requirements as it is doubtful that meaningful information will be obtained from the effort and expense that would result, not only in compiling such records but in reviewing them.

The proposed regulations were not reviewed or forwarded by the Dog Law Advisory Board prior to publication in the Pennsylvania Bulletin. The current Advisory Board, to my knowledge and based on my experience did not have any input in developing the proposed regulations. The proposed regulations do not fit well with the current regulations at the cited Chapter and do not mesh with other related Chapters within the code. The result is a confusing hodge-podge of regulations that do not complement each other and present average citizens with a poor concept of what is required. I suggest that the entire Code be reviewed by the Advisory Board and Bureau personnel and that revisions address consistency, practicability, and economy, as well as the Governor's wish to remove the stain of "puppy mills" from the Commonwealth. The current proposed regulations should be tabled until the Board and the Bureau can better address the need for new regulations.

I am suggesting that any new regulations should include the following provisions:

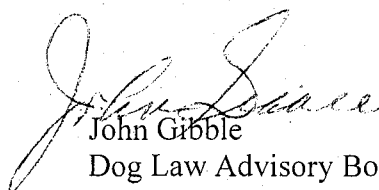
- A. The Department of Agriculture should work with commercial breeders to establish a non-government, self-regulating community of commercial breeders where members are held to high standards of cleanliness, animal husbandry, and quality. Members of such an association would commit to abide by such high standards and fund their own inspections in return for premium prices and advertising of their products. At the same time, the Department should be providing public service announcements that advise consumers to consider the source and consequence of their next pet purchase.
- B. The requirements for kennel licenses should be reviewed and a graduated scale of standards created. Standards would be based on the size and purpose of the kennel operation. Large scale breeders should be required to comply with higher facilities standards than smaller, hobby-type breeders. Currently regulations provide for separate classes of kennel license based on the size and purpose of the kennel but do not detail separate standards which should be required based on densities and volumes of operations.
- C. In reviewing applications for kennel licenses, state dog law wardens would actively participate in the design of the facility and the application of standards. Each licensed kennel would present an operating plan to be reviewed by the dog law officer. Said plan would detail scheduled veterinary treatment, cleaning and sanitation, exercise, feeding, and other aspects of care for that particular kennel. The operation plan would be approved by the dog law officer and made a condition of the kennel license.

Chasing with hounds is a sport that has origins as old as mankind. The first colonists of this Commonwealth imported hounds and horses and game for such recreation. To this day, Southeastern Pennsylvania ranks with Virginia and the Carolinas in the quality of organized fox-chasing. Competitive coon hunts with hounds bring in millions of dollars of tourism dollars and raise hundreds of thousands of dollars for charity. Coon hunting with hounds creates disposable income for thousands and rids rural and suburban areas of a large number of crop predators and rabies vectors. There are more beagle clubs in Pennsylvania than in any other state. These clubs preserve thousands of acres in wildlife habitat and encourage tourism with their field trials. All of these sports and economic benefits are dependent on the fair application of dog laws. The current trend to move from a "condition-based" assessment of humaneness to a "facilities-standard" will result in the additional decline of these sports and harm not only the proponents of these sports but the local, Commonwealth, and regional economy.

There is a perception that Pennsylvania is a "Puppy Mill State". While there are certainly operations that are substandard, it is apparent that with the proper enforcement of current regulations, these substandard operations can be addressed. Such operations will not cease with increased regulation as they are already operating outside existing regulation. If we are to rid the Commonwealth of this perceived stain, the most effective method is to remove the consumer base that supports inhumane breeders. By offering consumers a better product, advertising where it can be acquired, and ensuring strict adherence to a voluntary code of conduct for producers of this product, we can most effectively deal with the problem.

Attached are specific comments cited by chapter and article number.

Sincerely,



John Gibble  
Dog Law Advisory Board Member

## Specific Comments

Preamble: The discussion on Private Sector costs estimates that the cost to upgrade facilities to comply with the new regulations would be \$5,000 to \$20,000 per kennel. Costs appear to be severely underestimated and are approximate only for large scale, commercial breeding kennels. The Bureau does not account for individual, hobby breeders which may be affected to the point of disinterest when faced with a \$10,000 upgrade. Generally the hobby and sporting interests are producing a higher quality dog that conforms to breed standards, and abiding with the best husbandry practices available. Where facilities are lacking, time and effort more than make up for health and socialization standards inferred by the regulation changes. Implementation of "standards-based" regulations will adversely affect these hobbyists and sportspersons; adversely affect dogs dog sports and events; and consequently tourism, pet supply industries, and other related concerns will suffer. The general public will be affect by having to pay higher prices for lower quality pets.

Chapter 21.1 Definitions-Establishment: This definition would include facilities where dogs are exhibited or compete. Requiring dog clubs to obtain kennel licenses will be a hardship for clubs and would result in no benefits related to husbandry or humane concerns. Monitoring would prove difficult for the Bureau. Dog clubs, where dogs are kept for competitive shows or trials, and where dogs may be temporarily housed, should be exempted from the definition of establishment.

21.4 Penalties : Generally, provisions for penalties that accrue on a daily basis should be capped (ie. No more than \$5,000.00) and should state that accrual is effective beginning on the date of discovery. First, it is reasonable to assume that daily accrual of fees would quickly render the weight of the infraction and the cost of the penalty to be more than the actual value of the dog. If dogs are seized from a trainer or boarding kennel, the license holder should clearly be responsible for reclaiming seized dogs, settling any penalties and related boarding costs, not necessarily the dog's owner. In many instances the dog owner would be unaware that the trainer or boarder is not in compliance with the law. Ultimately is the boarder or trainer that is subject to compliance with the law not the owner who proceeded in good faith that the law was satisfied. A set time schedule should be allotted for disposition of penalties and appeals so that the costs of care for seized dogs does not escalate beyond reason. Recourse should be provided to recover costs associated with care and transportation if it is determined that a dog was improperly seized by the Bureau or appointed officer.

21.14 ADD Section (3) Dog clubs where 26 or more dogs may be kenneled less than 7 consecutive days, and where the purpose of the presence of those dogs is to compete in a conformation or field trial event, shall be exempt from the requirements to obtain a kennel license.

21.14 (4) A cap on the daily accrual of fines should be stated.

21.14 (5) vii (b) Prohibitions on Dealing with unlicensed kennels. It should be stated that this must be a knowing violation. It is reasonable to expect that transactions may occur without the second party being complicit in a violation of the law.

21.21 (c) What are "adequate drains or gutters or both"?

21.21 (d) "Unfettered clearance" is vague. Sometimes a baffle is helpful in controlling dogs at the entrance to a kennel or enclosure.

21.22 (c) Define "acclimated". Which short-haired breeds are not suited to outdoor temperatures? Most hounds are short-haired and were developed in temperate climates of Northern Europe and North America. This is subjective and should be better defined to address realistic standards.

21.22 (d) Define "quarantine"; Define "puppy".

21.23 (e) Exercise Requirements: These requirements seem excessive, and may run counter to some training programs. Probably less than 10% of all dogs receive this level of daily exercise. Segregation by sex and size may be impractical and unnecessary. A veterinary certificate should not be required to determine if a dog is incapable of daily exercise as any reasonable person should be able to visually determine such case. Daily records of exercise are impractical. It is suggested that other wording be considered: "Dogs subject to confinement in enclosures less than \_\_\_\_\_ square feet, shall be exercised on a weekly basis, consistent with an approved kennel plan reviewed at the time of licensure. If dogs are observed to exhibit unhealthy behavior related to confinement, the kennel plan may be revised by the Department".

21.24 (b) Again, define "acclimation". Delete this section.

21.24 (b1) 1: Shading need not be permanent. A tarp is a reasonable seasonal method to address shading. In winter shading may be unnecessary. Sunlight is beneficial for dog health and sanitation.

21.24 (b1) (4) Unnecessary-Delete

21.24 (b2) Slope is unnecessary if base is well drained. Other sections prohibit standing or pooled water.

21.24 (b3) What is the basis for this area calculation? The size of an enclosure is dictated else in the regulation.

21.24 (b4) Bedding is not necessary during warm weather and can harbor parasites. Replace with "Clean, dry bedding shall be provided in the dog box when ambient temperatures fall below 32 degrees Fahrenheit in the course of one day.

21.24 (b7) This is confusing. Materials should provide for positive drainage. Painting of wood surfaces should not be required. Often bare wood is better sanitized and lasts longer in a kennel situation than painted wood. Pain in contact with dogs may cause poisoning problems.

21.24 (f) (1) Change to "Primary outdoor enclosures or dog boxes shall not be constructed entirely of metal or other materials that easily transfer heat (such as metal drums), unless suitably insulated. Plastic, wood, and other suitable materials that are impervious to moisture and durable, shall comprise a complete top, bottom, and enclosing sides of any outdoor enclosure or dog box." Plastic barrels prohibited by this version of the regulation, make excellent dog shelters that are easily constructed, sanitized, are waterproof, and durable.

21.24 (f) (8) Records of cleaning are cumbersome and unnecessary. An inspecting officer will easily determine if cleaning is being accomplished on a regular basis.

21.24 (f) (11) These facility standards are too definitive, cumbersome, expensive, and mostly unnecessary.

21.25 Temperature Control (d) This is too specific; difficult to enforce, and may be impossible to construct.

21.26 Airflow will be difficult to measure and regulate. (b) How do you ventilate an outdoor enclosure?

21.29 Sanitation (a) Daily cleaning of kennel building is excessive. (d) Daily removal of stools is practicable.

21.44 (e) Record-Keeping Requirements for feeding, cleaning, and changing water are too stringent. Requirements should be limited to tracking breed, sex, date acquired, vaccinations, veterinary care, and reproductive history.

25.3 Claims for Fees: A schedule of reimbursable fees should be constructed to spare the Commonwealth inordinate expense. It is suggested that Commonwealth pay no more than \$3.00 per day per dog, plus reasonable veterinary expenses.