

JEROLD A. GLICK
103 Red Rambler Drive
Lafayette Hill PA 19444-2108

2559

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Pennsylvania Department of Agriculture
Bureau of Dog Law Enforcement
Attn: Ms. Mary Bender
2301 North Cameron Street
Harrisburg PA 17110-9408

INDEPENDENT REGULATORY
REVIEW COMMISSION

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Gentlemen:

My wife and I reside at the address shown at the top this page. We have three dogs in residence with us: a spayed female of indeterminate age who has lived with us for more than 18 years; a spayed, 6 year old female Dandie Dinmont Terrier conformation champion and certified therapy dog; and an intact 4 year old female Dandie Dinmont Terrier, also a conformation champion and certified therapy dog, which we co-own with an out-of-state resident. We have had one litter of puppies in the past twelve months.

My purpose in writing is to comment upon the proposed amendments to the Pennsylvania dog law regulations issued on December 16, 2006. While I find inhumane, substandard kennel conditions abhorrent, the Commonwealth of Pennsylvania has suitable law and regulations on its books to deal with such kennels, as recent enforcement history has shown. Most of the proposed new regulations are not needed, and would have unduly burdensome, costly and unenforceable outcomes without improving the quality of life for kenneled dogs.

There are a number of diverse legitimate interests in the dog world, and an equitable dog law must take due cognizance of each of these. Because the purposes and interests of dog hobbyists and fanciers, noncommercial kennels, commercial kennels, pet shops, and people who keep a dog or dogs in their homes as companions are not synonymous, a single exceedingly precise, engineering standard-oriented, set of dog regulations cannot do justice to all dog interests. A more effective and humane (to both dogs and humans) dog law approach is that of Montgomery County, Maryland.

The Maryland Code defines cruelty to animals, but the implementation and regulation of dogs and other animals is left to the counties of the state. For Montgomery County, Maryland the animal control law is codified in Montgomery County Code, Chapter 5, Animal Control, effective August 6, 1999. Regulations implementing Chapter 5 are issued by the Montgomery County Executive, approved by the County Council, and carried out by the Division of Animal Control and Humane Treatment. Chapter 5 defines and establishes differing license requirements for: a pet shop; a commercial kennel; a dog fancier; a benevolent organization (humane society); and groomers, trainers, and guard dog operators (and riding schools and stables). The same, most stringent Montgomery County regulations apply to both commercial kennels and pet shops. Less stringent regulations apply to dog fanciers and non-commercial kennels.

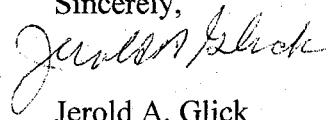
A **commercial kennel** is described in the Code as an establishment to sell animals or breed animals for sale, or that provides boarding, grooming, or training of animals for a fee. Commercial kennel does not include (1) an animal hospital maintained by a licensed veterinarian or (2) a fancier's kennel. A **pet shop** is a commercial enterprise that offers for sale any species of live animal. Pet shop does not include an enterprise that offers only livestock for sale. The Minimum Standards For Housing and Care of Animals Generally are the same for pet shops and commercial kennels : 13 separate standards ranging from Bedding to Ventilation. These are expressed as **performance standards**, reflecting the goal of preserving healthy, sound dogs. For bedding, as an example, the regulation states "There shall be sufficient clean, dry bedding to meet the needs of each individual animal. For cages, as a further example, the regulation states: "All cages are to be constructed of non-absorbent, nonporous material. All cages, except bird cages, shall have floors of either solid construction or woven or wire mesh construction or any combination thereof...Cages having wire construction shall be constructed of wire which is of sufficient height to permit every animal confined therein to stand normally to its full height and to turn." Any authorized person inspecting a commercial kennel will be able to determine without difficulty whether or not the animals therein have bedding and cages which meet the regulatory standard upon observation. There is no need for a dog law regulation to specify in great detail the composition of dog bedding, or the number of inches of height, depth, and width required for a dog cage to conform to regulations. Again, the emphasis is upon insuring the quality of life for the dog, not on seeing that dog appliances meet specific measurements.

A dog **fancier's kennel** is defined in the regulations simply as: A private kennel maintained by a fancier to keep or train dogs. A **non-commercial kennel** is defined as: A building or land for boarding, breeding, or care of domestic animals that belong to the owner of the building or land and are kept for show or hunting, or as pets. Non-commercial kennel does not include a riding stable. The standards required for a fancier's kennel and a non-commercial kennel are expressed in performance terms rather than engineering requirements, including the following: Section 2.0, C. "All animals shall be kept current on annual vaccinations for diseases, shall be tested and kept current on preventative treatment of heartworm, and shall have fecal tests and treatment as needed. Fanciers shall provide these records to the Department upon request;" Section 2.0D. "All offspring shall be up to date on shots and wormings as recommended by the fancier's veterinarian when placed in a new home, and a medical record shall be provided to the new owner. Offspring must be at least 8 weeks of age before being placed in a new home." There are no requirements as to minimum cage size, minimum exercise time, or size and number of floor drains and gutters. A fancier must pay an annual license fee for his/her kennel which is based upon the number of adult dogs in the kennel, but is legally excused from obtaining individual licenses for each dog in the kennel. The licenses for all types of kennels expire on June 30 of each year, and all kennels must be inspected by an animal control officer before licenses can be renewed.

As shown above, in Montgomery County, Maryland (and in other Maryland counties) kennels are not defined or licensed based upon the number of dogs passing through a facility each year. Kennels are defined and licensed based on the functions and services performed therein. The important factors are what the kennel does and for what purposes, not how many dogs cross the doorway each year. Under Subtitle 21.4 of the proposed Dog Law Enforcement Regulations anyone who keeps, harbors, or boards a cumulative totals of 26 dogs in any one calendar year is required to obtain a kennel license for the establishment in question. This establishment may be a private home.

The proposed regulations state that "establishment... shall encompass all of the individuals residing there." The framers of these proposed regulations apparently hold minor children residing in a home equally as capable and culpable as the adults living there. More significant is the specifying of 26 dogs passing through as comprising a kennel. If two adults living together in a private home have 3 dogs, and each of their two adult children have a dog, and each child and dog visit once a month, that house is said in the proposed regulations to have harbored 27 dogs (3 in residence, and 24 for each of the visits by the children). That house is required to obtain a kennel license under the proposed regulations, despite the facts that only 3 dogs are housed there permanently, and no commercial animal activity takes place there. This does not comport with reality, and does not define in any meaningful way the problem kennels with which the law is intended to deal. Pennsylvania should define kennels by what happens, and how the animals are kept and treated, in a facility, not by the number of dogs which might visit during the year.

Sincerely,



Jerold A. Glick

cc: John H. Jewett, Independent Regulatory Review Commission
State Representative Michael Gerber
State Senator Connie Williams